

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b>		<b>GRADE</b>	<b>AFSN/SSAN</b>				
<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>		<b>X</b>	<b>RECORD REVIEW</b>			
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>			
<b>YES</b>	<b>No</b>						
	<b>X</b>						
<b>MEMBER SITTING</b>			<b>VOTE OF THE BOARD</b>				
			<b>HON</b>	<b>GEN</b>	<b>UOTIC</b>	<b>OTHER</b>	<b>DENY</b>
							<b>X</b>
							<b>X</b>
							<b>X</b>
							<b>X</b>
<b>ISSUES</b> A94.05 A93.09		<b>INDEX NUMBER</b> A66.00		<b>EXHIBITS SUBMITTED TO THE BOARD</b>			
				<b>1</b>	ORDER APPOINTING THE BOARD		
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE		
				<b>3</b>	LETTER OF NOTIFICATION		
				<b>4</b>	BRIEF OF PERSONNEL FILE		
					COUNSEL'S RELEASE TO THE BOARD		
<b>HEARING DATE</b> 08 Dec 2005		<b>CASE NUMBER</b> FD-2005-00218		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
				TAPE RECORDING OF PERSONAL APPEARANCE			
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE							
Case heard at Washington, D.C.							
Advise applicant of the decision of the Board, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR							
Names and votes will be made available to the applicant at the applicant's request.							
<b>SIGNATURE OF RECORDER</b> 			<b>SIGNATURE OF BOARD PRESIDENT</b> 				
<b>INDORSEMENT</b>				<b>DATE: 12/12/2005</b>			
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL, AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002				

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2005-00218**

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

**FINDINGS:** Upgrade of discharge is denied.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

**ISSUE:** Applicant does not contest his discharge. He states that he wants to use the G.I. Bill and that he has been passed over for jobs due to his characterization of discharge. Applicant also states that he was harassed repeatedly by his supervisors after one isolated incident. The records indicated the applicant received an Article 15 for being disrespectful in language and deportment toward a TSgt and a SMSgt, and for dereliction of duties. He also received a Vacation action under the UCMJ for wrongfully using marijuana. In addition, he received a Letter of Reprimand for missing an appointment, dereliction of duty and for failing to obey orders. Hardly one isolated incident. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

In view of the foregoing findings the Board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

(Former A1C) (HGH A1C)

**1. MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Minot AFB, ND on 10 Aug 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

**2. BACKGROUND:**

a. DOB: 18 May 81. Enlmt Age: 18 6/12. Disch Age: 20 2/12. Educ: HS DIPL. AFQT: N/A. A-61, E-57, G-68, M-49. PAFSC: 3P031 - Security Forces Apprentice. DAS: 5 Aug 00.

b. Prior Sv: (1) AFRes 29 Nov 99 - 22 Feb 00 (2 months 24 days)(Inactive).

**3. SERVICE UNDER REVIEW:**

a. Enlisted as AB 23 Feb 00 for 6 yrs. Svd: 1 Yrs 5 Mo 18 Das, all AMS.

b. Grade Status: AB - 8 Jun 01 (Vacation of Article 15, 24 Jul 01)  
Amn - 8 Jun 01 (Article 15, 8 Jun 01)  
A1C - 7 Apr 00

c. Time Lost: None.

d. Art 15's: (1) 24 Jul 01, Vacation, Minot AFB, ND - Article 112a. You, did, at or near Minot, ND, between on or about 1 May 01, and on or about 17 May 01, wrongfully use marijuana. Article 134. You, did, at or near Minot AFB, ND, on or about 9 Jul 01, with intent to defraud, falsely pretend to [REDACTED] that there was enough money in the bag you handed him to pay your cab fare, then knowing that the pretenses were false, and by means thereof did wrongfully obtain from [REDACTED] services, of a value of \$17.25, to wit: taxi cab services. Reduction to AB. (No appeal) (No mitigation)

(2) 8 Jun 01, Minot AFB, ND - Article 91. You, at or near Minot AFB, ND, on or about 25 May 01, were disrespectful in language and deportment toward TSgt [REDACTED]. [REDACTED] a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of his office, by saying to him, "You can send somebody to pick me up or send the fucking patrol, I don't give a fuck", or words to that effect, and by hanging up the telephone on him. You, at or near Minot AFB, ND, on or about 25 May 01, were disrespectful in

language and deportment toward SMSgt ██████████ a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of his office by arguing with him and by saying to him, "Who the fuck are you to tell me to report for duty. You cannot force me to report for duty because an officer and doctor had placed me on 24 hours quarters, it is not a lawful order", or words to that effect. Article 92. You, who knew of your duties, on or about 25 May 01, were derelict in the performance of those duties in that you negligently failed to notify TSgt ██████████ the Facility Manager, that you had been placed on quarters, as it was your duty to do. Reduction to AB (below the grade of Amn suspended). Forfeiture of \$200.00 pay per month for two months, and 60 days restriction. (No appeal) (No mitigation)

- e. Additional: LOR, 26 JAN 01 - Missed appointment, dereliction of duty, and failing to obey orders.
- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (1) Yrs (8) Mos (13) Das  
TAMS: (1) Yrs (5) Mos (18) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 28 Feb 05.  
(Change Discharge to Honorable)

Issue 1: I would like to upgrade my discharge to honorable because I would like my G.I. Bill, wich (sic) I paid into for a year. And I have been passed over for Jobs because of my veteran status. I was harrassed repeatedly by my supervisors after 1 isolated incident and the paperwork or LOC & LOR's (sic) used for my discharge from the Air Force after the isolated incident (I was involved in a fight off of base and off duty w/another Airmen) (sic) was a result of harrasment (sic) by my superiors. I will take responsibility for my actions resulting from this harrasment (sic), but I feel the punishment (my discharge from the Air Force) was extreme and the nonjudicial punishment such as the temporary reduction in rank, the garnishment of pay and a 60 day base restriciton all of wich (sic) was served was sufficent (sic) enough. My claim of harassment (sic) by my First Sergeant (sic) where (sic) never filed and the only reason for signing my discharge papers was because I was told to do so by my Air Force Legal Counsel or face a court martial, and my legal counsel had failed to show me any ability to serve as legal counsel in such proccedings (sic).

ATCH  
None.

6JUL05/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 5TH BOMB WING (ACC)  
MINOT AIR FORCE BASE, NORTH DAKOTA

FD2005-00218

AUG 01 2001

MEMORANDUM FOR AB [REDACTED] 5 SFS

FROM: 5 SFS/CC

SUBJECT: Letter of Notification - AFI 36-3208, Paragraph 5.54.

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, drug abuse. The authority for this action is AFI 36-3208, Chapter 5, Section H, paragraph 5.54. If my recommendation is approved, your discharge will be characterized as general or honorable. I am recommending that your service be characterized as general.

2. My reasons for this action are: Between on or about 1 May 01 and on or about 17 May 01, you wrongfully used marijuana. Your suspended nonjudicial punishment was vacated on 26 Jul 01. (Atch 3)

3. Other Information:

a. Between about or about 18 Jan 01 and on or about 20 Jan 01, you engaged in the following misconduct:

(1) On or about 18 Jan 01, you failed to go at the time prescribed to your appointed place of duty, to wit: scheduled Chemical Warfare appointment.

(2) On or about Jan 01, you were derelict in the performance of you duties in that you failed to get your required shots at the immunization clinic, as it was your duty to do.

(3) On or about 20 Jan 01, you were instructed by a noncommissioned officer to go to the order room after completing your tour of duty to initiate paperwork for your AECS badge. You were also placed on the duty roster for 24 Jan 01 under appointments as a reminder of the responsibility. Upon returning to work on the evening of 24 Jan 01, you still had not taken the appropriate steps to get your AECS badge.

For these acts of misconduct you were given a Letter of Reprimand (LOR) on 26 Jan 01. (Atch 4)

b. On or about 25 May 01, you engaged in the following misconduct:

*Global Power for America*

(1) You were disrespectful in language and deportment towards a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was in the execution of his office, by saying to him, "You can send somebody to pick me up or send the fucking patrol, I don't give a fuck" or words to that effect, and by hanging up the telephone on him.

(2) You were disrespectful in language and deportment towards a senior noncommissioned officer, then known by you to be a superior noncommissioned officer, who was in the execution of his office, by saying to him, "Who the fuck are you to tell me to report for duty. You cannot force me to report for duty because an officer and doctor had placed me on 24 hour quarters, it is not a lawful order" or words to that effect.

(3) You were derelict in the performance of your duties in that you negligently failed to notify the Facility Manager that you had been placed on quarters, as it was your duty to do.

For these acts of misconduct you were punished under Article 15 of the UCMJ on 8 Jun 01 and an Unfavorable Information File was established. (Atch 5)

c. On or about 9 Jul 01, with the intent to defraud, you falsely pretended to a civilian taxi cab driver that there was enough money in the a bag you handed him to pay your cab fare, then knowing that the pretenses were false and by means thereof you wrongfully obtained from the civilian taxi cab driver services of a value of \$17.25, to wit: taxi cab services. Your suspended nonjudicial punishment was vacated on 26 Jul 01. (Atch 3)

4. The Letter of Notification with attachments will be forwarded to the separation authority in support of this recommendation. The commander exercising SPCM jurisdiction (5 BW/CC) or a higher authority will decide whether you will be discharged or retained in the Air Force and if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

5. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Captain [REDACTED], Area Defense Counsel, at his office, 300 Summit Drive, Room 306A, at 1030 hours on 1 Aug 2001. You may consult civilian legal counsel at your own expense.

6. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 0900 hours on 6 Aug 01 2001, unless you request and receive an extension for good cause shown. I will then send them to the separation authority.

7. If you fail to consult legal counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

8. You have been scheduled for a medical examination. You must report to the 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND at 0715T hours on 3 AUG 2001 for the examination. You must not drink alcoholic beverages 72 hours prior to the exam.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use in the Orderly Room.

10. Execute the attached acknowledgment and Statement of Understanding and return them to me immediately.

[REDACTED]

[REDACTED] Lt Col, USAF  
Commander, 5th Security Forces Squadron

Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. AF FM 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, 27 Jul 01, w/ atchs
4. Letter of Reprimand, 25 Jan 01
5. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 18 Jun 01, w/ atchs