

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE		AFSN/SSAN			
		AB					
TYPE GEN	PERSONNEL	COUNSEL	X	RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	No						
	X						
MEMBER SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A94.05		INDEX NUMBER A67.10 A66.00		EXHIBITS SUBMITTED TO THE BOARD			
				1	ORDER APPOINTING THE BOARD		
				2	APPLICATION FOR REVIEW OF DISCHARGE		
				3	LETTER OF NOTIFICATION		
				4	BRIEF OF PERSONNEL FILE		
					COUNSEL'S RELEASE TO THE BOARD		
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE		
HEARING DATE 15 Dec 2005		CASE NUMBER FD-2005-00223					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE							
<p>Case heard at Washington, D.C.</p> <p>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</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>							
SIGNATURE OF RECORDER			SIGNATURE OF BOARD MEMBER				
INDORSEMENT			DATE: 12/19/2005				
TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			FROM: 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

FD-2005-00223

GENERAL: The applicant appeals for upgrade of discharge to honorable, change the reason and authority for the discharge, and change the reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are 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 contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s and a Vacation action under the UCMJ for drinking under age, failing to adhere to a call to quarters and for wrongfully using marijuana. In addition, he also received a Summary Court-Martial for failure to go, failure to obey a lawful order, drinking under the legal drinking age, and for wrongfully and falsely altering a phase card. Finally, he received five Letters of Reprimand and three Memorandums for Record for various acts of misconduct. All this misconduct occurred within a 10 month period. 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. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 18 years of age when the discharge took place. However, there is no evidence he did not know right from wrong. The Board opined the applicant was the same age as the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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

[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Sheppard AFB, TX on 25 Jul 02 UP AFI 36-3208, para 5.49 & 5.54 (Misconduct - Minor Disciplinary Infractions and Drug Abuse). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 2 Apr 84. Enlmt Age: 17 5/12. Disch Age: 18 3/12. Educ: HS DIPL. AFQT: N/A. A-77, E-85, G-84, M-83. PAFSC: 2A612 - Aerospace Ground Equipment Helper. DAS: 12 Nov 01.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Sep 01 for 6 yrs. Svd: 00 Yrs 10 Mo 14 Das, of which AMS is 0 yrs 10 months 6 days (excludes 8 days lost time).

b. Grade Status: AB - 22 May 02 (Summary Court Martial, 5 Jun 02)
A1C - 9 Nov 01

c. Time Lost: 8 May 02 thru 15 May 02 (8 days).

d. Art 15's: (1) 20 Jun 02, Sheppard AFB, TX - Article 112a. You did, on or about 20 May 02, wrongfully use some amount of marijuana. Forfeiture of \$552.00 pay. (No appeal) (No mitigation)

(2) 9 Apr 02, Vacation, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 2 Apr 02, were derelict in the performance of those duties in that you willfully failed to adhere to the call to quarters, as it was your duty to do. Forfeiture of \$250.00. (No appeal) (No mitigation)

(3) 5 Feb 02, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 11 Jan 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21 and from frequenting a local hotel, as it was your duty to do. Forfeiture of \$250.00 pay per month for 2 months, 15 days restriction to the limits of Sheppard AFB, Texas, 15 days extra duty, and a reprimand.

(No appeal) (No mitigation)

- e. Additional: LOR, 16 APR 02 - Financial irresponsibility.
 MFR, 01 APR 02 - Not doing homework.
 MFR, 29 MAR 02 - Letter of counseling for not getting a haircut.
 MFR, 28 MAR 02 - Late for school and reporting to school with a substandard 36-2903.
 LOR, 15 MAR 02 - Urinating behind a building, and lying and laughing about it when he was discovered by another airman.
 LOR, 13 MAR 02 - Failure to perform Physical Conditioning.
 LOR, 31 JAN 02 - Purchasing, possessing, and or consuming alcohol and or tobacco products, failure to remain on station, and failure to remain in an appropriate uniform.
 LOR, 23 JAN 02 - Allowing an unauthorized entry of an airman into the facility while on guard duty without them showing appropriate identification.

- f. CM: Summary Court Martial - 5 Jun 02

CHARGE I: Article 86. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Sheppard AFB, TX, on or about 29 Apr 02, without authority, fail to go at the time prescribed to his appointed place of duty. Plea: Guilty. Finding: Guilty.

CHARGE II Article 90: Plea: Not Guilty, but Guilty of Article 92. Finding: Not Guilty, but Guilty of Article 92.

Specification: Having received a lawful command from Lt Col [REDACTED] his superior commissioned officer, then known by the accused to be his superior commissioned officer, to sign in each day, every 3 hours from 0600 until 2100, or words to that effect, an order which was his duty to obey, did, at or near Sheppard AFB, TX, on or about 21 Apr 02, fail to obey the same. Plea: Not Guilty, but Guilty of the named LIO of failure to obey a lawful order. Finding: Not Guilty, but Guilty of named LIO of failure to obey a lawful order.

CHARGE III: Article 91. Plea: Not Guilty, but Guilty of Article 92. Finding: Not Guilty, but Guilty of Article 92.

Specification: Having received a lawful order from TSgt [REDACTED] a noncommissioned officer, then known by the accused to be a noncommissioned officer, to sign in at 2100 and "not one minute later" or words to that effect, an order which it was his duty to obey, did, at or near Sheppard AFB, TX, on or about 21 Apr 02, willfully disobey the same. Plea: Not Guilty, but Guilty of the LIO of failure to obey a lawful order. Finding: Not Guilty, but Guilty of named LIO of failure to obey a lawful order.

CHARGE IV: Article 92. Plea: Guilty. Finding: Guilty.

Specification: Who knew or should have known of his duties at or near Sheppard AFB, TX, on or about 9 Apr 02, was derelict in the performance of those duties in that he willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21, as it was his duty to do.

CHARGE V: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Sheppard AFB, TX, on or about 9 Apr 02, wrongfully and falsely alter a phase card by adding two 361st Training Squadron red ink phase stamps to a certain instrument purporting to be the accused's official phase identification card in words and figures as follows; Sheppard AFB Form 303A, stamped with three 361st Training Squadron phase stamps. Plea: Guilty. Finding: Guilty. Sentence adjudged on 8 May 02: Ten days confinement, forfeiture of \$737.00 pay, reduction to airman basic, and a reprimand. Action by convening authority: Only so much of the sentence as provides for confinement for 10 days, forfeiture of \$200.00 pay, reduction to airman basic, and a reprimand is approved and will be executed.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (00) Yrs (10) Mos (06) Das
TAMS: (00) Yrs (10) Mos (06) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 2 Jun 05.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Recommendation for Discharge, 24 Jul 02.
4. Legal Review, 19 Jul 02.
5. Page 3, Record of Nonjudicial Punishment, 14 Jun 02.
6. Response to Article 15 Action, 18 Jun 02.
7. Student Training Report.

19JUL05/ia

2 June, 2005

SAFB/MIBR

550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

Dear Sir/Ma'am:

My name is [REDACTED] and I am separated from the U.S Air force. I am writing to you in application of a discharge review so that I can re-enlist. I received a general (under honourable conditions) discharge; and was completely separated by Jul 25 2002 (att1).

My Recommendation for Discharge (att2) states that members separated for drug abuse are not eligible for probation and rehabilitation (highlighted). I was separated because I was caught underage drinking on Apr 09 2002. My squadron commander at the time notified me of this a few days later. However the Legal Review of my Recommendation for Discharge, dated Jul 19 2002 (att3) states that the reasons for my discharge were minor disciplinary infractions and drug abuse (highlighted) and goes on to say that I was notified of my separation for the latter reason on Jul 16 2002 (highlighted). At this point in time I was assigned to the transition flight on Sheppard AFB TX, a flight only for people who have already started the separation process. The point I am trying to make is although I received non-judicial punishment on Jun 14 2002 for the incident (att4) the order for my separation had been passed before then because of the Apr 09 2002 incident.

In no way am I trying to condone my actions, but in an effort to explain them I have enclosed the letter I wrote to my Squadron Commander at the time (att5). Other than this isolated incident (att3) clearly states that my reason for discharge was minor disciplinary infractions. I strongly believe that the reason for this is because I made the commitment too young. I enlisted at 17 and was the youngest of all 2-3000 airmen in my squadron and most of the others. Unbeknown to me at the time I was still too immature and had a lot of growing up to do. Some people are ready at that age; I now see that I wasn't.. Now 21 I can see that I've grown into a completely different person with a mature outlook on life, but with the same goals and ambitions.

As I stated in (att5) throughout my technical training I always maintained good grades and kept my G.P.A above average, as you can see by looking at the results of my progress checks and block tests. I have enclosed my student training report (att6) to show these. I was good at and enjoyed my job, which is why I am trying so hard to upgrade my discharge, as I am now without the mental youth that put me off focus in the first place. I believe I am now ready and mature enough to take on the commitment of a career in the U.S.A.F. It's what I was born for, only I made the drastic mistake of rushing into it.

Whilst in B.M.T there was 1 trainee that was enlisted due to a court order, I don't know the detail of his case but if an individual can be tried and convicted in a court of law, and can then be trusted to pay his/her debt to society by an enlistment period in the air force; surely I can be spared a second chance also. Isn't that fair? Especially with the current escalating situation in Iraq, that makes me want to help my country even more. Re-enlistment is everything to me and I will do anything to achieve it, so please do what you can to make my military experience so far a lesson for the future and not a memory of the past, that I will kick myself forever for; for ruining. If you put as much time and thought into making your decision as I put into putting this package together, I know you will see that I am ready to give it another go, and determined not to fail again. It's not just that I want it; I was destined to be a part of the world's greatest air power, and am willing to do anything for it.

Respectfully,
[REDACTED]

FD2005-00223

- 2 -

June 2, 2005

Peter Alexander,
SSN: 540 59 9172



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

JUL 16 2002

MEMORANDUM FOR AB [REDACTED] 361 TRS

FROM: 361 TRS/CCQ

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions and drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraphs 5.49 and 5.54. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).
2. My reasons for this action are:
 - a. You did, at or near Sheppard AFB TX, on or about 20 May 02, wrongfully use some amount of marijuana. For this misconduct you received Article 15 punishment on 20 Jun 02
 - b. You did, at or near Sheppard AFB TX, on or about 29 Apr 02, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: details at bldg 516. For this misconduct and subparagraph "c" through "f" below, you were found guilty by a Summary Court-Martial on 8 May 02.
 - c. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 21 Apr 02, were derelict in the performance of those duties in that you failed to sign in each day every 3 hours from 0600 until 2100, as it was your duty to do.
 - d. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 21 Apr 02, were derelict in the performance of those duties in that you failed to sign in at 2100, as it was your duty to do.
 - e. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 9 Apr 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21, as it was your duty to do.
 - f. You did, at or near Sheppard AFB TX, on or about 9 Apr 02, wrongfully and falsely alter a phase card by adding two 361st Training Squadron red ink phase stamps to a certain instrument purporting to be the accused's official phase identification card in words and figures as follows; Sheppard Air Force Base Form 303A, stamped with three 361st Training Squadron phase stamps.

g. You did, at or near Sheppard AFB TX, on or about 9 Apr 02, make and utter a certain check to the North Bowling Lanes, to wit: check #1026, in the amount of \$24.00, for the procurement of lawful currency or things of value, and did thereafter dishonorably fail to maintain sufficient funds in your bank account for payment of said check in full upon presentment for payment. For this misconduct you received an LOR on 16 Apr 02.

h. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 2 Apr 02, were derelict in the performance of those duties in that you willfully failed to adhere to the call to quarters, as it was your duty to do. For this misconduct your suspended Article 15 punishment was vacated on 9 Apr 02.

i. You did, at or near Sheppard AFB TX, on or about 8 Mar 02, urinate behind building 516. For this misconduct you received an LOR on 15 Mar 02.

j. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 22 Feb 02, were derelict in the performance of those duties in that you failed to perform physical conditioning (PC), as it was your duty to do. For this misconduct you received an LOR on 13 Mar 02.

k. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 27 Jan 02, were derelict in the performance of those duties in that you failed to remain proper military uniform and not wear civilian clothes and remain on station, as it was your duty to do. For this misconduct subparagraph "l" below, you received an LOR on 31 Jan 02.

l. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 23 Jan 02, were derelict in the performance of those duties in that you failed to refrain from possessing, purchasing, and consuming tobacco products, as it was your duty to do.

m. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 23 Jan 02, were derelict in the performance of those duties in that you allowed an unauthorized airman from another squadron to enter your facility with out showing proper identification, as it was your duty to do. For this misconduct you received an LOR on 23 Jan 02.


n. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 11 Jan 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21 and from frequenting a local hotel, as it was your duty to do. For this misconduct you received Article 15 punishment on 5 Feb 02.

o. You did, at or near Sheppard AFB TX, on or about 15 Jan 02, fail to go at the time prescribed to your appointed place of duty, to wit: school. For this misconduct you received an AETC Form 173, Student Record of Academic/Nonacademic Counseling and Comments, on 15 Jan 02.

p. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 10 Dec 02, were derelict in the performance of those duties in that you willfully failed to stay awake in class, as it was your duty to do. For this misconduct you received an AETC Form 173 on 10 Dec 01.

q. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 3 Dec 02, were derelict in the performance of those duties in that you willfully failed to stay awake in class, as it was your duty to do. For this misconduct you received an AETC Form 173 on 3 Dec 01.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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 to reenlist in the Air Force and will probably be denied enlistment in any component of the armed forces.

3. 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  Area Defense Counsel, at BLDG 1638, on 16 Jul 02 at 1630 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 19 Jul 02, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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

6. You were scheduled for a medical examination on 21 May 02.

7. 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 361 TRS student administration office.

8. Execute the attached acknowledgment and return it to me immediately.


Maj, USAF
Squadron Section Commander

Attachments: (Listed on next page)

1. AF Form 3070, 20 Jun 02
2. Response to Article 15 Action, 18 Jun 02
3. 82 MDOS/SGOHA Memo, 30 May 02
4. AFIERA/SDT Brooks AFB TX, Msg, 2915502, May 02
5. 82 MDOS/SGOHA Memo, 4 Jun 02
6. AFIERA/SDT Brooks AFB TX, Msg, 031944, Jun 02
7. AF Form 3545, 02050243 w/7 atch
8. DD Form 490 w/Article 64A Review, 5 Jun 02
9. AF Form 1359, 8 May 02
10. DD Form 2329, 8 May 02
11. DD Form 2707, 8 May 02
12. AF Form 2098, 10 May 02
13. AF Form 2098, 17 May 02
14. 361 TRS/CC Memo, 3 Apr 02
15. AF Form 1168, A1C [REDACTED] 9 Apr 02
16. SAFB Form 303A
17. LOR, 16 Apr 02
18. 82 SPTG/SVF Memo, 9 Apr 02
19. AF Form 366, 9 Apr 02
20. AF Form 1168, SSgt [REDACTED] 2 Apr 02
21. AF Form 1168, A1C [REDACTED], 2 Apr 02
22. LOR, 15 Mar 02
23. LOR, 13 Mar 02
24. MFR, SSgt [REDACTED] 8 Mar 02
25. LOR, 31 Jan 02
26. LOR, 23 Jan 02
27. AF Form 3070, 5 Feb 02
28. AF Form 1168, AB [REDACTED] 18 Jan 02
29. AF Form 1168, AB [REDACTED] 18 Jan 02
30. AF Form 1168, AB [REDACTED], 18 Jan 02
31. AF Form 1168, SSgt [REDACTED], 26 Jan 02
32. AETC Form 173, 15 Jan 02
33. AETC Form 173, 10 Dec 01
34. AETC Form 173, 3 Dec 01
35. AETC Form 125A, 5 Jun 02
36. Student Training Report, 02063
37. MFR, Mr. [REDACTED] 29 Mar 02
38. MFR, TSgt [REDACTED], undated
39. MFR, Mr. [REDACTED] 1 Apr 02
40. LAFB Form 205, 7 Nov 01
41. Airman's Receipt to Notification Memorandum *Wd*