

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) | GRADE AMN | AFSN/SSAN |
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| TYPE GEN | <input checked="" type="checkbox"/> | PERSONAL APPEARANCE | RECORD REVIEW |
|-----------------|-------------------------------------|----------------------------|----------------------|

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|----------------|--|---|
| COUNSEL | NAME OF COUNSEL AND OR ORGANIZATION | ADDRESS AND OR ORGANIZATION OF COUNSEL |
| YES | No | |
| | <input checked="" type="checkbox"/> | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
|-----------------------|--------------------------|-----|------|-------|------|
| | HON | GEN | UOHC | OTHER | DENY |
| II | | | | | X |
| | | | | | X |
| M | | | | | X |
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|---------------|--------|---------------------|--------|--|
| ISSUES | A92.21 | INDEX NUMBER | A67.50 | 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 |
| | | | | TAPE RECORDING OF PERSONAL APPEARANCE |

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|---------------------|-------------|--------------------|---------------|
| HEARING DATE | 25 Oct 2005 | CASE NUMBER | FD-2005-00239 |
|---------------------|-------------|--------------------|---------------|

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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 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.

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| SIGNATURE OF RECORDER | SIGNATURE OF BOARD PRESIDENT |
|------------------------------|-------------------------------------|

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| INDORSEMENT | DATE: 11/28/2005 |
| 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

CASE NUMBER

FD-2005-00239

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB, MD, on 25 Oct 2005. Mrs. [REDACTED] the applicant's spouse, also testified on the applicant's behalf.

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.

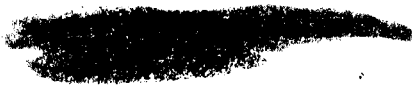
ISSUE: Applicant received a general discharge for a pattern of misconduct and unsatisfactory performance.

Applicant contends that there was an impropriety in determining his discharge, although he does not specify exactly what that impropriety was. Applicant also states that since his separation, he has matured, lived a productive life, and contributed positively to society, and that his post-service conduct indicates that he is a person who should be believed, who merely made a non-malicious mistake, whose overall character outweighs in-service conduct, and who, at that time, could not perform the duties assigned and conform to military life. Applicant also testified that he suffered from depression during his enlistment although there is no evidence of this diagnosis in his medical records and the applicant denied this on his enlistment documents. The records indicated the applicant received an Article 15, two Letters of Reprimand, four Letters of Counseling, one Letter of Admonishment, two Memorandums for Record, and one verbal counseling for misconduct to include failing to report to work on time on numerous occasions, failing to perform assigned tasks in a timely manner, disobeying a direct order, failing to return to his duty section after completion of ergometry training, failing to obtain a passing score on his CDCs on three occasions, failing to properly administer the squadron's suspense program on numerous occasions, leaving his appointed place of duty without permission and making a false official statement, disconnecting the smoke alarm in his dorm room, failure to go, and parking his vehicle in a prohibited area. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior and concluded the misconduct was a significant departure from conduct expected of all military members. Although the DRB was pleased to see that the applicant was doing well and has a good job, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service and the characterization of the discharge received by the applicant was found to be appropriate.

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

 (Former AMN) (HGH AMN) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Dish fr Shaw AFB, SC on 25 Feb 99 UP AFI 36-3208, para 5.50.2 & 5.26.3 (Pattern of Misconduct-Conduct Prejudicial to Good Order and Discipline & Unsatisfactory Performance). Appeals for Honorable Discharge)

a. See attached cy of Examiner's Brief dtd 20 Jan 00.

b. The AFDRB reviewed case on 29 Feb 00 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 09 Jun 05.(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

Atch

1. Applicant's Issues.
2. Three Training Certificates.
3. Certificate of Achievement.
4. Job Offer.
5. Training Certificate.
6. Character Reference.
7. Transcript.
8. Training Certificate.
9. Driving History.
10. Criminal History Record Check.
11. Doctor's Report.
12. Marriage and Birth Certificates.

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BRIEF - REQUEST FOR DISCHARGE UPGRADE

Relevant Information

Honorable Discharge: The Honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for military personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate.

General Discharge: (Under Honorable Conditions) If a member's service has been honest and faithful, it is appropriate to characterize that service under honorable conditions. Characterization of service as General (under honorable conditions) is warranted when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military conduct or performance of duty outweigh positive aspects of the record.

Positive In-Service Conduct:

- Completed Basic Training (Certificate Attached)
- Completed Information Management Apprentice Course (Certificate Attached)
- AF Study and Testing Skills (Certificate Attached)
- Customer Service Provider Course (Certificate Attached)

Positive Post-Service Conduct:

- Employment in State Civil Service Position (Letter of Employment, Certificate, and Character Reference Attached)
- Education (Transcript and Certificate Attached)
- Absence of a Criminal Record (Driving Record and Criminal History Record Check Attached)
- Participation in Treatment for Mental Illness/Personality Disorder (Letter from Physician Attached)
- Family Responsibility, Development, and Stability (Marriage and Birth Certificate Attached)

Mitigating circumstances:

- Unsatisfactory Performance on CDC's (Career Development Courses).
- Post-Service Diagnosis of Depression and Anxiety Disorder.
- Lack of professionalism and effort by supervisors.

Issues

Did the Air Force process my discharge appropriately?

Holding

The following is a list of descriptions regarding discharges:

Unsatisfactory Performance. A member may be separated when it is determined that the member is unqualified for further military service by reason of unsatisfactory performance. Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. Counseling and rehabilitation requirements are of particular importance with respect to this reason for separation. Because military service is a calling different from any civilian occupation, a member should not be separated when unsatisfactory performance is the sole reason unless there have been efforts at rehabilitation under standards prescribed by the Secretary concerned. The service shall be characterized as Honorable or General (under honorable conditions).

Alcohol Abuse Rehabilitation Failure. A member who has been referred to a program of rehabilitation for drug and alcohol abuse may be separated for failure through inability or refusal to participate in, cooperate in, or successfully complete such a program in the following circumstances: (1) There is a lack of potential for continued military service; or (2) Long term rehabilitation is determined necessary and the member is transferred to a civilian medical facility for rehabilitation.

Misconduct. A member may be separated for misconduct when it is determined that the member is unqualified for further military service by reason of one or more of the following circumstances:

- **Minor Disciplinary Infractions.** A pattern of misconduct consisting solely of minor disciplinary infractions. If separation of a member in entry-level status is warranted solely by reason of minor disciplinary infractions, the action should be processed under Entry-Level Performance and Conduct.
- **A pattern of Misconduct.** A pattern of misconduct consisting of (a) discreditable involvement with civil or military authorities or (b) conduct prejudicial to good order and discipline.
- **Commission of a Serious Offense.** Commission of a serious military or civilian offense if in the following circumstances: (1) The specific circumstances of the offense warrant separation; and (2) A punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-martial.
- **Civilian Conviction.** Conviction by civilian authorities or action taken that is tantamount to a finding of guilty, including similar adjudications in juvenile proceedings, when the specific circumstances of the offense warrant separation, and the following conditions are present: (1) A punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-martial or (2) The sentence by civilian authorities includes confinement for 6 months or more without regard to suspension or probation.

Characterization of service for misconduct will normally be Under Other Than Honorable Conditions, but characterization as General (under honorable conditions) may be warranted for those with outstanding military records.

Rationale

Since my separation, I have matured, lived a productive life, and contributed positively to society. My post-service conduct indicates that I am a person, who should be believed, who merely made a non-malicious mistake, whose overall character outweighs in-service conduct, and who, at that time, could not perform the duties assigned and conform to military life.

I believe that there was an impropriety when determining my discharge and that impropriety was significant, resulting in a General (Under Honorable Conditions) Discharge. I am requesting that the Board evaluate my application and upgrade my discharge to Honorable in accordance with my mitigating circumstances and characterization of service listed above.

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

[REDACTED]

(Former AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/02/25 UP AFI 36-3208, para 5.50.2 & 5.26.3 (Pattern of Misconduct & Unsatisfactory Performance). Appeals for Hon Disch.

2. **BACKGROUND:**

a. DOB: 79/07/13. Enlmt Age: 17 5/12. Disch Age: 19 7/12. Educ: HS DIPL. AFQT: N/A A-46, E-54, G-44, M-40. PAFSC: 3A031 - Information Management Apprentice. DAS: 97/10/20.

b. Prior Sv: AFRes 96/12/17 - 97/06/24 (6 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 97/06/25 for 4 yrs. Svd: 1 Yrs 8 Mo 1 Das, all AMS.

b. Grade Status: AMN - 97/12/25

c. Time Lost: none.

d. Art 15's: (1) 98/09/08, Shaw AFB, SC - You did, o/a 6 Aug 98, w/o auth, go from your appointed place of duty. You did, o/a 6 Aug 98, w/intent to deceive, make to MSGt -----, an official statement, to wit: that you did go to sick call, saw a female doctor, and that she gave you a bottle of Motrin, which statement was totally false, and was then known by you to be so false. Rdn to AB (susp til 1 Mar 99). (No appeal) (No mitigation)

e. Additional: LOC, 20 Jan 98 - Dereliction of duty.
LOC, 01 Apr 98 - Disobeying orders.
LOA, 08 May 98 - Failure to go.
LOR, 07 Jul 98 - Dereliction of duty.
LOR, 23 Jul 98 - Dereliction of duty.
LOC, 10 Sep 98 - Misconduct.
MFR, 21 Oct 98 - Substance Abuse.
MFR, 20 Nov 98 - Failure to go.
VC, 17 Dec 98 - Traffic Ticket.
LOC, 11 May 98 - Failed CDC.

f. CM: none.

g. Record of SV: none.

(Discharged from Shaw AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (2) Mos (9) Das
TAMS: (1) Yrs (8) Mos (1) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 99/11/09.
(Change Discharge to Honorable)

Issue 1: All the misconduct actions against me were minor. The real reason was failure of CDC's (sic) (Career Development(sic) Course) which constitutes an Honorable discharge.

ATCHS

none.

00/01/20/ia



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

9 Feb 99

MEMORANDUM FOR AMN [REDACTED]

FROM: 55 FS/CC
 530 Houston Ave
 Shaw AFB SC 29152

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct and failure to progress in on-the-job training, under the provisions of AFPD 36-32 and AFI 36-3208, paragraphs 5.50.2 and 5.26.3, respectively. If my recommendation is approved, your service will be characterized as general.
2. My reasons for this action are:
 - a. On or about 12 Jan 98, you were derelict in the performance of your duties in that you failed to perform your assigned task in a timely manner. In addition, on or about 20 Jan 98, you failed to report to duty at the time prescribed. For this misconduct, you received a letter of counseling (LOC), dated 20 Jan 98.
 - b. On or about 30 Mar 98, you disobeyed a direct order given to you by 2Lt [REDACTED] to take leave if you traveled outside of the 300-mile radius. For this misconduct, you received a LOC, dated 1 Apr 98.
 - c. On or about 8 May 98, you failed to return to your duty section after attending ergometry training. For this misconduct, you received a letter of admonition (LOA), dated 8 May 98.
 - d. On or about 7 Jul 98, you were derelict in the performance of your duties in that you failed to properly administer the squadron's suspense program. For this misconduct, you received a letter of reprimand (LOR), dated 7 Jul 98.
 - e. On or about 23 Jul 98, you were again derelict in the performance of your duties in that you failed to properly administer the squadron's suspense program. For this misconduct, you received a LOR, dated 23 Jul 98.
 - f. You did, on or about 6 Aug 98, go from your appointed place of duty, to wit: building 1511, Fuel Shop. In addition, you did, on or about 6 Aug 98, with intent to deceive, make to MSgt [REDACTED] an official statement, to wit: that you did go to sick call, saw a female doctor, and that she gave you a bottle of Motrin, which statement was totally false, and was then known by you to be so false. For this, you received an Article 15 nonjudicial punishment, dated 2 Sep 98. Punishment consisted of suspended reduction to the grade of airman basic, and 14 days extra duty.
 - g. On or about 8 Sep 98, you disconnected the smoke alarm in your dormitory room in violation of Shaw Air Force Base Pamphlet 32-113. For this misconduct, you received a LOC, dated 10 Sep 98.

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h. On or about 30 Sep 98, you consumed alcohol at the Enlisted Club while under the age of twenty-one. For this misconduct, you were referred to the Substance Abuse Clinic, as evidenced by 55 FS/CC's memorandum, dated 21 Oct 98.

i. On or about 20 Nov 98, you failed to go to the base foreign object debris walk at hanger 1614. For this misconduct, you were verbally counseled, as evidenced by 2Lt [REDACTED] memorandum, dated 14 Dec 98.

j. On or about 17 Dec 98, you parked your vehicle in a prohibited area while the base was in THREATCON Bravo. For this, you were verbally counseled, as evidenced by an Armed Forces Traffic Ticket, dated 17 Dec 98.

3. The reasons that support discharge for unsatisfactory performance are as follows:

la. On or about 7 May 98, you failed to obtain a passing score on your volume II Career Development Course test after being given six weeks to prepare. For this, you received a LOC, dated 11 May 98.

b. On or about 21 Sep 98, you failed to pass your first Career Development Course (CDC) end-of-course examination. The minimum passing score was 65. Your score was 58, as evidenced by your Report of Course Examination, dated 21 Sep 98.

c. On or about 21 Dec 98, you failed to pass your second CDC end-of-course examination. The minimum passing score was 65. Your score was 60, as evidenced by your Report of Course Examination, dated 21 Dec 98.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial jurisdiction 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.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made a telephone appointment for you to consult Capt [REDACTED], Area Defense Counsel, 895-9530, on 12 Feb 99, at 0800 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three duty days after receipt of the notification memorandum unless you request and receive an extension for good cause shown. I will send them to the separation authority.

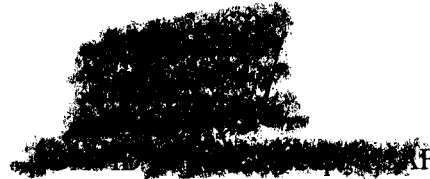
6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You must report, in uniform, to the Shaw AFB Hospital, Physical Examinations Section, on 16 Feb 99, at 0900 hours for a medical examination.

8. 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.

9. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

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

A large, dark, irregularly shaped redaction mark covers the signature area of the document.

Commander

Attachments:

1. LOC, 20 Jan 98
2. LOC, 1 Apr 98
3. LOA, 8 May 98
4. LOR, 7 Jul 98
5. LOR, 23 Jul 98
6. AF Form 3070, 2 Sep 98
7. LOC, 10 Sep 98
8. 55 FS/CC Memorandum, 21 Oct 98
9. 2Lt Maile's Memorandum, 14 Oct 98
10. DD Form 1408, 17 Dec 98
11. LOC, 11 May 98
12. Reports of Course Examination, 21 Sep 98 and 21 Dec 98
13. AF Form 623a, 28 Jan 99
14. AF Form 2096, 3 Feb 99
15. Airman's Receipt of Notification Memorandum