

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

A1C

TYPE GEN

PERSONAL APPEARANCE

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

X

ISSUES

A94.05

INDEX NUMBER

A67.10

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

HEARING DATE

21 Dec 2005

CASE NUMBER

FD-2005-00249

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.

SIGNATURE OF RECORDER

SIGNATURE OF BOARD PRESIDENT

INDORSEMENT

DATE: 12/21/2005

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-2005-00249

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 contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s for failure to go, being incapacitated for the proper performance of his duties due to wrongful previous overindulgence of intoxicating liquor, and for stealing landscaping rocks on two separate occasions. He also received a Record of Individual Counseling for being late for duty and an Unfavorable Information File. 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.

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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Nellis AFB, NV on 15 Nov 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 May 80. Enlmt Age: 22 4/12. Disch Age: 24 6/12. Educ: HS DIPL. AFQT: N/A. A-69, E-74, G-68, M-85. PAFSC: 2A331A - Avionic Systems Attack Control Apprentice. DAS: 13 Jun 03.

b. Prior Sv: (1) AFRes 5 Sep 02 - 9 Sep 02 (5 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 10 Sep 02 for 6 yrs. Svd: 02 Yrs 02 Mo 06 Das, all AMS.

b. Grade Status: A1C - 03 Nov 02

c. Time Lost: None.

d. Art 15's: (1) 10 Jun 03, Sheppard AFB, TX - Article 86. You did, on or about 20 Mar 03, without authority, fail to go at the time prescribed to your appointed place of duty. Article 134. You were, on or about 20 Mar 03, as a result of wrongful previous overindulgence in intoxicating liquor or drugs, incapacitated for the proper performance of your duties. Suspended reduction to Airman. Reprimand. (No appeal) (No mitigation)

(2) 01 Sep 04, Nellis AFB, NV - Article 121. You did, on or about 22 Jun 04, steal landscaping rocks, military property, of a value of \$500.00 or less, the property of the United States Government. You did, on or about 23 Jun 04, steal landscaping rocks, military property, of a value of \$500.00 or less, the property of the United States Government. Suspended reduction to Airman. Forfeiture of \$150.00 pay, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC/UIF, 29 MAR 04 - Late for duty.

f. CM: None.

g. Record of SV: 10 Sep 02 - 15 Apr 04 Nellis AFB 3 (HAF Dir)

h. Awards & Decs: AFTR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (02) Yrs (02) Mos (11) Das
TAMS: (02) Yrs (02) Mos (07) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 22 Jun 05.
(Change Discharge to Honorable)

Issue 1: I was discharged due to having two Article 15's (sic). I believe I should receive an Honorable discharge because both Articles were more than a year apart and were completely unrelated. I have aslo (sic) paid in full my outstanding enlistment bonus.

ATCH

1. DD Form 149.

28JUL05/ia



DEPARTMENT OF THE AIR FORCE

57TH AIRCRAFT MAINTENANCE SQUADRON
NELLIS AIR FORCE BASE, NEVADA 89191

FD2005-00249

25 Oct 04

MEMORANDUM FOR A1C [REDACTED]

FROM: 57 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct: minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

a. You did, at or near Sheppard Air Force Base, Texas, on or about 20 Mar 03, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 920. For your actions, you were punished under Article 15, Uniform Code of Military Justice (UCMJ) on 10 Jun 03 consisting of a suspended reduction to the grade of Airman, a reprimand, and an Unfavorable Information File (UIF) was established; and

b. You were, at or near Sheppard Air Force Base, Texas, on or about 20 Mar 03, as a result of wrongful previous overindulgence in intoxicating liquor or drugs, incapacitated for the proper performance of your duties. For your actions, you were punished under Article 15 UCMJ on 10 Jun 03 consisting of a suspended reduction to the grade of Airman, a reprimand, and a UIF was established; and

c. On 27 Mar 04, you reported late for duty. For your actions, you received a Record of Individual Counseling (ROIC) dated 29 Mar 04; and

d. You did, at or near Nellis Air Force Base, Nevada, on or about 22 Jun 04, steal landscaping rocks, military property, of a value of \$500.00 or less, the property of the United States Government. For your actions, you were punished under Article 15 UCMJ on 1 Sep 04 consisting of a suspended reduction to the grade of Airman, forfeiture of \$150.00 pay, a reprimand, and this action was placed in your existing UIF; and

e. You did, at or near Nellis Air Force Base, Nevada, on or about 23 Jun 04, steal landscaping rocks, military property, of a value of \$500.00 or less, the property of the United States Government. For your actions, you were punished under Article 15 UCMJ on 1 Sep 04 consisting of a suspended reduction to the grade of Airman, forfeiture of \$150.00 pay, a reprimand, and this action was placed in your existing UIF.

3. 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 United States Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible or reenlistment in the Air Force and any special pay, bonus, or education assistance funds may be

subject to recoupment. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

4. 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] at Bldg 625, on

26 Oct 04, at 1030 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. **You have three (3) duty days from the date/time served to submit statements in your behalf.** Any statements you want the separation authority to consider must reach me by 28 Oct 04 at 0900 hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. In the event the commander exercising special court-martial jurisdiction or a higher authority approves your discharge, separations will out-process you. Your initial separations briefing is scheduled for 27 Oct 04 on 1130 hrs.

7. 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.

8. You have been scheduled for a medical examination. You must report to 99th Medical Group, 222 Las Vegas Blvd on 27 Oct 04, at 1425 hours for the examination.

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 at 57 AMXS/CC.

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

[REDACTED]
[REDACTED] Lt Col, USAF
Commander

Attachments:

1. Receipt of Notification Memorandum
2. Article 15, dated 10 Jun 03
3. ROIC, dated 29 Mar 04
4. Article 15, dated 1 Sep 04
5. AF Form 1137