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			COUNSEL'S RELEASE TO THE BOARD				
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE				
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2005-00106

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, via video teleconference at Andrews AFB on 27 Jan 2005. The following witnesses also testified on the applicant's behalf: Mrs [her mother].

The following additional exhibits were submitted at the hearing:

Exhibit #6: Memorandum from member 30 Sep 04

Exhibit #7: Memorandum from CMS _____ 28 Jun 04

Exhibit #8: Memorandum from MSG _____ 21 Jun 04

Exhibit #9: E-mail message from Ms ____ 29 Sep 04

Exhibit #10: Memo for Record from SrA ____ 26 Jan 06

Exhibit #11: Memorandum from Capt (Dr.) ____ 12 Aug 04

Exhibit #12: Members statement 30 Sep 04

Exhibit #13: Notes by applicant's mother, Aug 2004, 10 pages

Exhibit #14: Essay by applicant, October 1997

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

FINDINGS: Upgrade of discharge to Honorable 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: The applicant contends her discharge was too harsh due to mitigating circumstances including family problems and personal losses, depression and alcohol abuse. She asserts she was unfairly singled out and harshly punished by her supervisor and in turn, her chain of command. She asserts her chain of command mishandled her case. The records indicate that the applicant received 2 Letters of Admonishment, 5 Letters of Reprimand, 2 Articles 15, and a Vacation Action for repeated failure to go, failure to obey, and dereliction of duty.

Issue 1: The applicant contends her discharge was too harsh due to mitigating circumstances including family problems and personal losses, depression and alcohol abuse. Evidence of the record shows a diagnosis of recurrent depression while in service and she testified that she had experienced recurrent depressed mood since adolescence and had been treated by mental health professionals including with medication prior to entering the Air Force. Although she experienced transient depressed mood at the time of her boyfriend's death in December 2002, she testified that incidents of reporting late for duty occurring several months later in 2003 were not related to symptoms of depression or alcohol use. The applicant also testified that incidents of reporting late and duty performance difficulties in the early part of 2004 were not related to use of alcohol or feeling depressed, but rather were due to miscommunication, poor management by her supervisor and being singled out for the same behavior and conduct that was tolerated in her coworkers. She testified that alcohol use became a problem approximately two weeks before she sought help in the mental health clinic following receipt of a Letter of Admonishment for poor duty performance of three months duration. The applicant denied using alcohol following completion of alcohol rehabilitation and attributes subsequent incidents of failure to go to medication side effects. In her written responses to disciplinary action by her supervisors and commander, the applicant asserted side effects from medications that were initiated only a few days before the incidents; however, service medical records show treatment

with these medications for over two months without complaint of side effects prior to the incidents.

Issue 2: The applicant asserts she was unfairly singled out by her supervisor for punishment and in turn, by her chain of command. She states she was singled out for the same behavior and conduct that was tolerated in her co-workers. Although the applicant now testifies to this issue, she did not raise this as an issue at any of the times that she made written responses to disciplinary actions, her referral enlisted performance report or in her response to discharge action. The applicant's testimony did not add any further clarity to the evidence of the record.

Issue 3: The applicant contends her chain of command mishandled her case. Evidence of the record shows that the applicant was provided medical care and sent for intensive alcohol rehabilitation treatment, that her commander participated in treatment team meetings with her mental health treatment team and afforded her an opportunity for a second chance through correctional custody. The applicant consulted legal counsel and provided her commander with written responses that she testified were prepared with the assistance of legal counsel. The applicant argues now that she should have received a medical discharge instead of an administrative discharge. She asserts that during a one week hospital stay at an Army hospital that immediately followed her last Article 15 action, her Army psychiatrist stated that medical discharge was indicated. However, there is no documentation in the medical record including by her Air Force psychiatrist, or in the discharge package that raises this as an issue. Evidence of the record indicates her psychiatrist was aware of her administrative difficulties and that her mental health treatment team communicated with her commander; however, there is no evidence that a recommendation for medical discharge was made or contemplated. Available service medical records indicate that her depressive symptoms were assessed as mild by mental health providers. Furthermore, this was not an issue that the applicant raised with her commander at the time of her discharge.

Issue 4: The applicant states that she was a good airman and that the positive aspects of her career outweighed the bad. The DRB took note of the applicant's duty performance as documented by her performance reports and noted excellent duty performance as annotated in her first Enlisted Performance Report (EPR) which closed out 29 May 2003. However, the Board found the misconduct offset any positive aspects of the applicant's duty performance as documented in the applicant's second EPR which closed out 29 May 2004.

Issue 5: Applicant contends that she should not be penalized indefinitely for a mistake she made when young. The DRB recognized the applicant was 23 years of age when the discharge took place. However, there is no evidence she was immature or did not know right from wrong.

The Board, after reviewing the evidence of the personnel record, medical record and testimony by the applicant did not conclude that the preponderance of the evidence showed that depression or alcohol abuse caused her misconduct or that she was singled out by her entire chain of command for offenses that were allegedly tolerated and went unpunished in her peers. There was insufficient evidence to show that medical evaluation board was indicated as life skills documentation in the medical record reflected mild symptoms and made no reference to a requirement for MEB at the time the applicant was undergoing administrative discharge. The applicant consulted legal counsel and this was not an issue the applicant made at the time of her discharge. The Board concluded the discharge was appropriate for the reasons which were the basis for this case and 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

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

(Former AMN) (HGH SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Maxwell AFB, AL on 2 Nov 04 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 6 Jun 81. Enlmt Age: 19 7/12. Disch Age: 23 4/12. Educ: HS DIPL. AFQT: N/A. A-59, E-57, G-57, M-47. PAFSC: 4R031 - Diagnostic Imaging Apprentice. DAS: 4 Nov 02.

b. Prior Sv: (1) AFRes 27 Jan 01 - 29 May 01 (4 months 2 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB on 30 May 01 for 4 years. Svd: 03 Yrs 05 Mo 04 Das, all AMS.

b. Grade Status: Amn - 23 Aug 04 (Article 15, 23 Aug 04) A1C - 30 Apr 04 (Article 15, Vacation, 5 Aug 04) SrA - 30 Mar 03 A1C - 30 May 01

c. Time Lost: None.

- d. Art 15's: (1) 23 Aug 04 Maxwell AFB, FL Article 86. You did, on or about 5 August 04, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Amn. Thirty days extra duty and Reprimand. (Appeal/Denied) (No mitigation)
 - (2) 5 Aug 04, Vacation, Maxwell AFB, AL Article 86. You did, on or about 26 Jul 04, without authority fail to go at the time prescribed to your appointed place of duty. You did, on or about 27 Jul 04, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AlC. (No appeal) (No mitigation)
 - (3) 30 Apr 04, Maxwell AFB, AL Article 86. You did, on or about 16 Apr 04, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended Reduction to A1C. Thirty days correctional custody to begin on 19 May 04. (No appeal) (No mitigation)

e. Additional: LOR, 02 AUG 04 - Failure to go at the time prescribed. LOR, 13 APR 04 - Failure to go at the time prescribed. LOA, 07 APR 04 - Failure to obey a Lawful Order and dereliction of duty.
LOR, 31 MAR 04 - Failure to go at the time prescribed. LOR, 09 FEB 04 - Failure to go at the time prescribed. LOR, 27 AUG 03 - Failure to go at the time prescribed. LOA, 13 MAR 03 - Failure to go at the time prescribed.

- f. CM: None.
- g. Record of SV: 30 May 01 29 Mar 03 Maxwell AFB 5 (Initial) 30 May 03 - 29 May 04 Maxwell AFB 2 (Annual) REF
- h. Awards & Decs: NDSM, AFTR.
- i. Stmt of Sv: TMS: (03) Yrs (09) Mos (06) Das TAMS: (03) Yrs (05) Mos (04) Das
- 4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 25 Feb 05. (Change Discharge to Honorable.)

ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.
- 2. Letter from Congressman Scott.
- 3. Father's Death Certificate.
- 4. Three Medical bill's for treatment of her father.
- 5. Boyfriend's Funeral Program.
- 6. Her Aunt's Funeral Program.

05MAY05/day

0 4 MAR 2005 APPLICATION FOR THE REVIEW OF DISCHARGE Form Approved FROM THE ARMED FORCES OF THE UNITED STATES OMB No. 0704-0004 (Please read instructions on Pages 3 and 4 BEFORE completing this application.) Expires Aug 31, 2006 The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewill antibodies and maintaining the date needed, and completing and reviewing the collection of information. Send comments regarding this burde existing data sources. spect of this collection petitions for reducing the burden, to the Department of Defense, Executive Services and Commur that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a colle control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE. PRIVACY ACT STATEMENT AUTHORITY: 10 U.S.C. 1553; E.O. 9397. PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual. ROUTINE USE(S): None. DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appro ose discharge is to be reviewed). PLEASE PRINT OF RMY MARINE CORPS NAVY UULST GUARD 1.000.00000 c. GRADE/RANK AT DISCHARGE d. SOCIAL SECURITY NUMBER E2 2. DATE OF DISCHARGE ON SEPARATION 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) 5. BOARD ACTION REQUESTED (X one) (YYYYMMDD) (If date is more than 15 years HONORARI E CHANGE TO HONORABLE ago, submit a DD Form 149) CHANGE TO GENERAL/UNDER **CENTRAL/UNDER HONORABLE CONDITIONS** HONORABLE CONDITIONS **R OTHER THAN HONORABLE CONDITIONS** CHANGE TO UNCHARACTERIZED CONDUCT (Special court-martial only) (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR UK SEPAKA HUN UNCHARACTERIZED SEPARATION TO: MAXWELL, AFB, AL OTHER (Explain) 6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on I believe that my chain-of-command grossly mishandled my situation that ultimately resulted in my discharge from the service with a General Discharge. From the very beginning of my time in service, I faced extreme family problems. My father is 100% disabled and was severally ill. Because of his medical state I was granted a hardship assignment to Maxwell AFB to be closer to home. Shortly after my arrival at Maxwell my boyfriend of several years was shot to death on Christmas Day. If this were not enough, I 7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. 8. If military documents or medical records are relevant to your case, please send copies.) Death Transcript for grandfather dated Jul 28, 20^{04} proof of hospitalization of father Mar 3 – 9, 2004, proof of hospitalization of father Can 29-Jan 14, 2005, funeral program for 1 (Boyfriend) Dec 30, 2002, and funeral program for aunt, Sep 1, 2004. 9. TYPE OF REVIEW REQUESTED (X one) CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION X SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD. I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA. AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) [NOTE: The Navy Discharge Review Board does not have a traveling panel.] 10.a. COUNSEL/REPRESENTATIVE (If any) NAME (Lest, First, Middle Initial) AND ADDRESS b. TELEPHONE NUMBER (Include Area Code) (See Item 10 of the instructions about counsel/representative.) c. E-M MILITARY AND VETERANS LIAISON 13TH CONGRESSIONAL DISTRICT OF GEORGIA d. FAX NUMBEP (Include Ares Codel 173 N. MAIN STREET, JONESBORO, GEORGIA 30236 11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in guestion is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate and relationship by marking a box below. the name (print) SPOUSE WIDOW LEGAL REPRESENTATIVE WIDOWER NEXT OF KIN OTHER (Specify) 12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE ode) Ь. (Forward notification of any change in address.) ç. d. FAX NUMBER (Include Area Code) 13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the CASE NUMBER penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 (Do not write in this space.) and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, FD 2005or both.) **b. DATE SIGNED - REQUIRED** ovel (YYYYMMDD) 00104 20050225

DD FORM 293 MAR 2004

PREVIOUS EDITIONS ARE OBSOLETE.

Page 1 of 4 Pages

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

came home on leave on March 3, 2004 to find my father had fallen in the bathroom and had severely injured his head. Following this, my grandfather was ill and died soon. My aunt was killed in a head-on collision the next month. My father was again hospitalized on Sept 29th. I was only 21 years old when all of this began. My situation caused me to drink more than I should. My chain-of-command responded to this by sending me to a residential Alcohol and Drug Rehabilitation Program. I was also diagnosed with Major Depressive Disorder, Recurrent. As a result my mother repeatedly expressed her concerns to my commander that I might be suicidal. Two weeks following my return I was placed in (jail) Military Correctional Custody for 30 days. Upon my return, I was forced to work 12-hour shifts for 30 days. Although I understand that my short periods of tardiness were in violation of military law, I believe that my chain-of-command failed to consider my mitigating circumstances. Additionally, I submitted a request for early separation under the early out program. But, my chain-of-command decided to separate me for misconduct instead. In closing, I respectfully ask the board to grant me favorable consideration of my request for upgrade of my discharge. I believe this is the fair thing to do. I believe it is important to say that I come from a successful military family where my father, brother, and sister served honorably. I entered the service with the intent of doing the same.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

The "misconduct" category of my discharge has greatly hindered my ability to move forward with my life. I have not been able to attain meaningful employment, receive my educational benefits, and have suffered personal sharne with my family and friends. Although I am now out of the military, the discharge amounts to continued punishment. Again to a significant degree, these circumstances were honestly beyond my control. Therefore, I urge the board to take all of this into consideration, and to render a decision to upgrade my discharge. Thank you.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY				
Army Review	Boards Agency			
Support Divisi	ion, St. Louis			
9700 Page Av	/enue			
St. Louis, MO	63132-5200			
	a.army.pentagon.mil)			

AIR FORCE

Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742 NAVY AND MARINE CORPS

Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023

COAST GUARD

U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593



DEPARTMENT OF THE AIR FORCE 42D MEDICAL SUPPORT SQUADRON MAXWELL AIR FORCE BASE, ALABAMA 36112

DI:T 18 2004

MEMORANDUM FOR AMN

FROM: 42 MDSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. 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. On or about 5 August 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you were punished IAW Article 15, UCMJ on 23 August 2004. The punishment consisted of a reduction to the grade of Airman, 30 days extra duty and a reprimand. The Article 15 was filed in your existing Unfavorable Information File (UIF). (Attachment A)

b. On or about 26 July 2004 and 27 July 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received a Record of Proceedings of Vacation of Suspended Nonjudicial Punishment (Vacation). The vacation consisted of reduction to the grade of Airman First class (E-3) with new date of rank of 30 April 2004, effective 5 August 2004. (Attachment B)

c. On our about 26 July 2004 and 27 July 2004, you failed to go at the time prescribed to your appointed place of duty. For this misconduct you received a Letter of Reprimand (LOR) on 2 August 2004. The LOR was filed in your existing UIF. (Attachment C)

d. On or about 16 April 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you were punished by with an Article 15 on 30 April 2004. The punishment consisted of reduction to the grade of E-3, suspended through 29 October 2004, and 30 days correctional custody. The Article 15 was filed in your existing UIF. (Attachment D)

e. On or about 12 April 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received an LOR on 13 April 2004. The LOR was filed in your UIF. (Attachment E)

f. Between on or about 12 January 2004 and on or about 7 April 2004, you were derelict in the performance of your duties in that you failed to accomplish QA tasks and you let your duties of MRI tracking lapse as it was your duty not to do. For this act of misconduct you received a Letter

of Admonishment (LOA) on 7 April 2004. The LOA was filed in your Personal Information File (PIF). (Attachment F)

g. On or about 30 March 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received an LOR on 31 March 2004. The LOR established a UIF. (Attachment G)

h. On or about 9 February 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received an LOR on 9 February 2004. The LOR was filed in your existing PIF. (Attachment H)

i. On or about 22 August 2003, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received an LOR on 27 August 2003. The LOR was filed in your PIF. (Attachment I)

j. On or about 5 March 2003, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received an LOA on 13 March 2003. The LOA was filed in your PIF. (Attachment J)

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 for 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).

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 Captain at 550 E. Maxwell Blvd, on 190ct04, at 1400 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 2! octor(0!99) 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 to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

6. You have been scheduled for a medical examination. You must report to <u>Blue Team</u> on <u>210404</u>, at <u>0815</u> hours for the examination.

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 at the Area Defense Counsel's Office.

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Lt Col, USAF

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

Commander

Attachments:

- Supporting Documents
 Receipt of Notification Memorandum