

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

INITIAL)

GRADE

AFSN/SSAN

AB

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

A95.00

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

25 Jan 2006

CASE NUMBER

FD-2005-00196

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., without the applicant's presence. He did not appear for a scheduled personal appearance.

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.

INDORSEMENT

DATE: 1/27/2006

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-2005-00196

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) and scheduled a personal appearance via video teleconference, but failed to appear.

The following additional exhibits were submitted at the hearing:

None.

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE:

Issue 1. Applicant requests an upgrade of his discharge. His DD Form 293 contained no basis for this request other than the phrase "trying to move on with life." The DRB was pleased to see that the applicant wants to move forward. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The records indicated the applicant received nonjudicial punishment under Article 15, UCMJ, for larceny. He received a vacation action and Letter of Reprimand for failure to go at the time prescribed to his appointed place of duty. Moreover, he received one Letter of Reprimand for failing to maintain dormitory standards and three Records of Individual Counseling for failure to shave, insubordinate conduct, failure to obey an order, and failure to perform telephone watch. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Tyndall AFB, FL on 22 Mar 00 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Oct 80. Enlmt Age: 17 0/12. Disch Age: 19 5/12. Educ: HS DIPL. AFQT: N/A. A-83, E-44, G-46, M-18. PAFSC: 4M031 - Aerospace Physiology Apprentice. DAS: 19 Dec 98.

b. Prior Sv: (1) AFRes 25 Oct 97 - 4 Aug 98 (9 months 10 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 5 Aug 98 for 4 yrs. Svd: 1 Yrs 7 Mo 18 Das, all AMS.

b. Grade Status: AB - 4 Oct 99 (Vacation of Article 15, 8 Feb 00)
AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 8 Feb 00, Vacation, Tyndall AFB, FL - Article 86. You, did, on or about 2 Feb 00, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 3 Feb 00, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(2) 4 Oct 98, Tyndall AFB, FL - Article 81. You, did, on or about 25 Sep 99, conspire with A1C [redacted] to commit an offense under the Uniform Code of Military [redacted], to wit: larceny of a Tommy Hilfiger shirt, of a value of about \$49.00, the property of Army and Air Force Exchange Service, and in order to effect the object of the conspiracy you did affix a 50% off clearance tag onto the Tommy Hilfiger shirt which was not on sale. Article 121. You, did, on or about 25 September 1999 steal a Tommy Hilfiger shirt, of a value of about \$49.00, the property of Army and Air Force Exchange Service. Suspended reduction to AB. Forfeiture of \$150.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: LOR, 18 JAN 00 - Failure to maintain dorm room within

minimum standards of cleanliness.
LOR, 30 NOV 99 - Late for duty on four occasions.
RIC, 09 SEP 99 - Failure to shave.
RIC, 10 SEP 99 - Insubordinate conduct and failure to obey
an order or regulation.
RIC, 05 MAR 99 - Failure of Phone Watch responsibility.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (4) Mos (28) Das
TAMS: (1) Yrs (7) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 9 May 05.
(Change Discharge to Honorable)

Trying to move on with life.

ATCH
None.

24JUN05/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD2005-00196

28 Feb 00

MEMORANDUM FOR AIRMAN

FROM: 325 AMDS/CC

SUBJECT: Notification Memorandum—Administrative Discharge

1. I am recommending your discharge from the United States Air Force for Misconduct, specifically; minor disciplinary infractions. The authority for this action is Air Force Policy Directive 36-32 and Air Force Instruction 36-3208, Chapter 5, Section H, paragraph 5.49, *Misconduct*. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending your service be characterized as general.

2. My reasons for this action are:

a. You were, on or about 5 Mar 99, derelict in the performance of your duties by failing to man your post, as evidenced by a Record of Counseling, dated 5 Mar 99 (Atch 1a).

b. You did, on or about 8 Sep 99, fail to obey a lawful order given by SSgt as evidenced by a Record of Counseling, dated 10 Sep 99 (Atch 1b).

c. You were, on or about 7 Sep 99, derelict in the performance of your duties by failing to shave, as evidenced by a Record of Counseling, dated 9 Sep 99 (Atch 1c).

d. As evidenced by an Article 15, finalized on 13 Oct 99 (Atch 1d):

1) You did, on or about 25 Sep 99, conspire with A1C to commit larceny of a Tommy Hilfiger shirt of a value of about \$49.00, by affixing a 50% off clearance tag onto the shirt, which was not on sale.

2) You did, on or about 25 Sep 99, steal a Tommy Hilfiger shirt, of a value of about \$49.00, the property of Army and Air Force Exchange Service.

e. You were, on divers occasions, not present for duty at the appointed time, as evidenced by a Letter of Reprimand, dated 30 Nov 99 (Atch 1e).

f. You were, on or about 14 Jan 00, derelict in the performance of your duties by failing to maintain your dorm room within minimum acceptable standards, as evidenced by a Letter of Reprimand, dated 18 Jan 00 (Atch 1f).

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g. You did, on or about 2 Feb 00; and, on or about 3 Feb 00, fail to go at the time prescribed to your appointed place of duty, as evidenced by an AF Form 366, finalized on 15 Feb 00 (Atch 1g).

3. 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. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.
4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult Capt [redacted] Area Defense Counsel, Bldg. 1005 (3-2911) at 1000 hrs on 29 FEB 00. You may consult civilian legal counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three (3) workdays unless you request and receive an extension, in writing, for showing good cause. I will send them to the separation authority.
6. 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.
7. You have been scheduled for a medical records check as part of this discharge process. You must report to the NCOIC, Physical Examinations, Building 1309, Monday, Tuesday, Thursday or Friday between 1330 and 1500 to complete this medical records check.
8. You have been scheduled for a separations briefing. You must report to 325 MSS/DPMAR (Separations) section at 1400 hrs on 1 MAR 00.
9. Any personal information you furnish in rebuttal is covered by the Privacy Act. A copy of AFI 36-3208 is available for your use in the unit personnel office.
10. Execute the attached acknowledgment and return it to me immediately.

[redacted], Lt Col, USAF, MC, SFS
Commander, 325 AMDS

Attachments: (listed separately)