

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

INITIAL)

GRADE

AB

TYPE GEN		PERSONAL APPEARANCE	X	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

MEMBER SITTING

OF THE BOARD

HON	GEN	UOTHC	OTHER	DENY
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X+*

X+*

X+*

X+*

X+*

ISSUES	A95.00 A01.00	INDEX NUMBER	A67.10		EXHIBITS SUBMITTED TO THE BOARD
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| 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	14 Feb 2006	CASE NUMBER	FD-2005-00247
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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.

+ RE Code

* Reason and Authority



INDORSEMENT

DATE: 2/16/2006

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00247

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to 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 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: The applicant submitted no issues of inequity or impropriety. The records indicated the applicant received an Article 15, one Letter of Reprimand, and two Letters of Counseling for misconduct. The misconduct included failure to go disrespect to a noncommissioned officer, disobeying a direct order, and making false official statements. 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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Schriever AFB, CO on 18 Nov 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 12 Jun 83. Enlmt Age: 18 3/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-59, E-61, G-46, M-42. PAFSC: 1C631 - Space System Operations Apprentice. DAS: 5 Feb 03.

b. Prior Sv: (1) AFRes 21 Sep 01 - 26 Aug 02 (11 months 6 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 27 Aug 02 for 6 yrs. Svd: 01 Yrs 02 Mo 22 Das, all AMS.

b. Grade Status: AB - 30 Sep 03 (Article 15, 30 Sep 03)
A1C - 11 Oct 02

c. Time Lost: None.

d. Art 15's: (1) 30 Sep 03, Schriever AFB, CO - Article 107. You, did, at or near Schriever AFB, CO, on or about 2 Sep 03, with intent to deceive, make to MSgt _____, an official statement, to wit: that your grandmother had a stroke and that you wanted to go home on emergency leave to assist her, which statement was totally false, and was then known by you to be so false. You, did, at or near Peterson AFB, CO, on or about 3 Sep 03, with intent to deceive, make to the Peterson AFB Test Proctor, an official statement, to wit: your mother was having medical problems and that you couldn't think straight, which statement was totally false, and was then known by you to be so false. Reduction to AB. Suspended forfeiture of \$200.00 pay per month for 2 months. Restriction to the limits of Peterson AFB, Colorado, with the exception of performing military duties at Schriever AFB, Colorado, for 15 days. (No appeal) (No mitigation)

e. Additional: LOR, 09 SEP 03 - Disobeying a direct order.
LOC, 05 SEP 03 - Disrespect to an NCO.
LOC, 27 AUG 03 - Failure to go.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (01) Mos (28) Das
TAMS: (01) Yrs (02) Mos (22) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 20 Jun 05.
(Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

Veteran wishes to upgrade DD 214 - Delete #28 Misconduct.

ATCH

1. DD Form 214.

7SEP05/ia



DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)

FD 2005-00 247

30 Oct 03
2 SOPS

MEMORANDUM FOR AB

FROM: 2 SOPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your current term of service be characterized as general.

2. My reasons for this action are:

a. On or about 20 Aug 03, you failed to go to a mandatory Career Development Course (CDC) examination appointment on Peterson AFB, Bldg 350, Room 1085, at 0800 hours. This constituted a violation of Article 86, Uniform Code of Military Justice (UCMJ). As a result, you received a Letter of Counseling (LOC), dated 27 Aug 03. (Atch 1a).

b. On or about 4 Sep 03, you were disrespectful toward a non-commissioned officer (NCO). This was not your first offense, you were verbally counseled a week prior for being disrespectful to another NCO. This constituted a violation of Article 91, UCMJ. As a result, you received an LOC, dated 5 Sep 03. (Atch 1b).

c. On or about 3 Sep 03, you were given a direct order by the unit First Sergeant to call him if you were unable to come into work for any reason. The unit First Sergeant also told you that you would be reporting to work and would be allowed to go to any appointment that you were able to make at the clinic after you came into work. On or about 8 Sep 03, you disobeyed this direct order by calling in sick, not calling the First Sergeant, and not coming into work. This constituted a violation of Article 92, UCMJ. As a result, you received a Letter of Reprimand (LOR), dated 9 Sep 03. (Atch 1c).

d. On or about 2 Sep 03, you did with the intent to deceive make a false official statement to the unit First Sergeant, to wit: that your grandmother had a stroke and that you wanted to go home on emergency leave to assist her. On or about 3 Sep 03, you did with the intent to deceive make a false official statement to a Peterson AFB Test Proctor, to wit: that your mother was having medical problems and that you could not think straight. These statements constituted violations of Article 107, UCMJ. As a result, I imposed nonjudicial punishment on 30 Sep 03, which consisted of a reduction to the grade of Airman Basic (E-1), new date of rank 30 Sep 03, suspended forfeiture of \$200.00 pay per month for 2 months, and restriction to the limits of

MASTER OF SPACE

Peterson AFB, CO, with the exception of performing military duties at Schriever AFB, CO for 15 days. (Atch 1d).

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 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.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult the Area Defense Counsel Office, 567-7393, building T65, Schriever AFB, on 30 Oct 03 at 1115 hours. You may consult civilian counsel at your own expense. Civilian counsel, if employed, must be readily available.

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 **3 duty days** from the date you receive this memorandum of notification 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 have been scheduled for a medical examination. You must complete the attached DD Form 2697 (Atch 5) and report to the Peterson AFB Flight Medicine Clinic for your scheduled appointment on 3 Nov 03 at 1520 hours with You must arrive 15 minutes prior (1505) to the scheduled appointment time.

8. You must report to MPF Separations on 3 Nov 03 at 1300 hours to receive a briefing.

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 in your unit orderly room.

), Lt Col, USAF
Commander, 2nd Space Operations Squadron

Attachments:

- 1. Derogatory Data:
 - a. LOC, 27 Aug 03
 - b. LOC, 5 Sep 03
 - c. LOR, 9 Sep 03

- d. AF Form 3070, 30 Sep 03 -- w/evidence (E-mail from MSgt 15 Sep 03,
Memorandum For Record from MSgt List of Individuals Waiting to Test,
Record of Emergency Data, AF Form 988, Request for Delay, 19 Sep 03, Defense Legal
Review, 25 Sep 03, Corrections made to Article 15; 2 Oct 03)
2. Airman's Receipt of Notification
3. Airman's Statement
4. Recoupment Statement
5. DD Form 2697