

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

GRADE

AMN

TYPE GEN	X	PERSONAL APPEARANCE	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 A93.01 A94.05	INDEX NUMBER A67.05	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-2005-00280
------------------------------------	-------------------------------------

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 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-2005-00280**

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 appeared and testified before the Discharge Review Board (DRB), without counsel, via videoconference at the Florida State Armory, with DRB deliberation held at Andrews AFB on 25 Jan 2006. The following witness also testified on the applicant's behalf: Ms _____ the applicant's fiancée.

Additional exhibits and evidence presented 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, change of reason and authority for discharge, and change of reenlistment code are 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 submitted no written issues for the Board's consideration. However, in testimony, the applicant admitted committing the offenses that resulted in his discharge, citing his youth and immaturity at the time, while expressing a desire re-enlist into military service. Specifically, the applicant testified that he was easily influenced by others, believed to be his friends, into committing the offenses. The applicant was discharged on 22 December 2004 with a General characterization of service, for a pattern of misconduct - conduct prejudicial to good order and discipline. The applicant received one Letter of Reprimand (LOR) on 20 August 2004, for a civilian arrest for the theft of an item (television set) valued between \$50 and \$500 dollars, one Record of Individual Counseling on 20 September 2004 for failure to go at the time prescribed to his appointed place of duty (Bay Orderly), followed by a Article 15, on 25 October 2004, as the definitive non-judicial action for absenting the aforementioned place of duty in order to transport a fellow airman to Mexico and to thereafter, in a clandestine manner, return himself back to his place of duty. In response to the applicant's LOR, he offered an explanation of the plan devised by his friends for him to steal a television utilizing an old receipt from a previous like purchase. The applicant testified that he was the only person arrested for the crime, in that he elected not to divulge the names of other participants in the scheme. For the applicant's Article 15, he testified that he and a co-worker believed that they had damaged a government vehicle while traversing the grounds of Camp Bullis, Texas, and that through their belief of getting into serious trouble, one airman decided he would escape the consequences by going to Mexico; which the applicant agreed to facilitate by driving the escapee-owner of the means of transportation, and later returning himself to CONUS. The Board acknowledged that the applicant had received a favorable 8-month training report, dated 23 November 2004. The Board was also pleased to note that since the applicant's discharge he has met a young lady with whom he plans to one day marry and that they jointly participate in counseling and church activities on a regular basis. However, the Board believed that the positive aspects of the applicant's military service and post-military activities are far outweighed by the negative aspects of his military 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 AMN) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Lackland AFB, TX on 22 Dec 04 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, to Change the RE Code, Reason and Authority for Discharge.

2. BACKGROUND:

a. DOB: 04 Aug 83. Enlmt Age: 20 4/12. Disch Age: 21 4/12. Educ: HS DIPL. AFQT: N/A. A-54, E-50, G-33, M-40. PAFSC: 2T111 - Vehicle Operations Helper. DAS: 23 Apr 04.

b. Prior Sv: None.

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 10 Dec 03 for 6 yrs. Svd: 01 Yrs 00 Mo 13 Das, all AMS.

b. Grade Status: AMN - 25 Oct 04 (Article 15, 25 Oct 04)
A1C - 05 Mar 04

c. Time Lost: None.

d. Art 15's: (1) 25 Oct 04, Lackland AFB, TX - Article 86. You, did, on or about 15 Sep 04, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman, 30 days extra duty, and a reprimand. (Appeal/Denied) (No mitigation)

e. Additional: RIC, 20 SEP 04 - Failure to go.
LOR, 20 AUG 04 - Civil arrest for theft.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (01) Yrs (00) Mos (13) Das
TAMS: (01) Yrs (00) Mos (13) Das

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

Issue 1: There are several reasons why a change is requested. While in the

Air Force I made a decision that ended my career. Today I look back and regret what was done. One reason why I'm requesting an upgrade is to attempt to regain the opportunity of being an Airman in the Air Force. Another reason is to obtain reasonable employment. During these past six months, I have thought seriously about the mistake I have made, and if given a second chance I will gratefully (sic) cherish the opportunity (sic).

ATCH

1. DD Form 214 (Member 1 & 4).
2. Article 15.
3. Record of Individual Counseling, 20 Sep 04.
4. Security Forces Report of Investigation.
5. Vehicle Impoundment Report.

24AUG05/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD 2005-00280

09 DEC 2004

MEMORANDUM FOR A1C4

FROM: 37 LRS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct; specifically, Conduct Prejudicial to Good Order and Discipline. The basis 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 Honorable, Under Honorable Conditions (General) or Under Other Than Honorable Conditions. I am recommending your service be characterized as Under Honorable Conditions (General).
2. My reasons for this action are:
 - a. On 1 Jul 04, you entered a guilty plea in Bexar County Court, San Antonio, Texas to the offense of Theft of \$50 to \$500. After hearing the evidence and finding that it substantiated your guilt, the court deferred further proceedings without entering an adjudication of guilt. As a result, you received 6 months probation, 24 hours of Community Service Restitution, a requirement to successfully complete Alternative to Shoplifting Education Program by 1 October 04 and a Letter of Reprimand, dated 20 Aug 04. This LOR established an Unfavorable Information File.
 - b. On or about 15 Sep 04, you failed to go at the prescribed time to your appointed place of duty: Building 1205. As a result, you received an Article 15, dated 25 Oct 04 and your punishment was reduction to the grade of E-2, 30 days extra duty and a reprimand.
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 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 counsel. Military legal counsel can be obtained to assist you. An appointment can be made for you to meet with the Area Defense Counsel (ADC) at Building 6119, on 7 Dec 2004 at 1000 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 by (allow 3 workdays) 9 DEC 04 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 statement 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 report to Willford Hall Medical Center, Family Medicine Clinic on 13 Dec 2004 at 0900 hours. You must pickup your medical, immunization, and dental records prior to the examination.
8. You have been scheduled for a Transition Assistance Program (TAP) briefing. You must report to the Family Support Center, Bldg 1249, 1561 Stewart Street, on 7 Dec 2004 at 1500 hours for an appointment with MS. [redacted].
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 the Unit Personnel Office.
10. Execute the attached acknowledgment and return it to me immediately.

; Lt Col, USAF
Commander

Attachments:

1. Letter of Reprimand, dated 20 Aug 04
2. Bexar County Court Condition of Misdemeanor Adult Probation Memo, dated 1 Jul 04
3. AF Form 3070, dated 25 Oct 04 w/Atch
4. Unfavorable Information File Summary, annotated