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TO:  SAF/MRBR  SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD									
550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742  1535 COMMAND DR. EE WING ANDREWS AFB, MD 20762-700					EE WING, 3RD FL	E WING, 3RD FLOOR			
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## AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2005-00296

**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.

### ISSUES:

- 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received seven Letters of Reprimand and one Letter of Counseling for misconduct. The misconduct included late for work on numerous occasions, multiple infractions for failure to go, making a false statement, failure to follow instructions, and dereliction of duty. In addition, the applicant had two Career Development Course failures. The DRB opined that through these administrative actions, the applicant had ample opportunities to change her 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.
- 2. The applicant stated she was told her discharge would be easily upgraded. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.
- 3. Applicant stated that she was having flashbacks and nightmares after she returned from a deployment in Iraq. The Board discussed the applicant's medical history. The Board noted that she had not presented any of these symptoms to the medical authorities for treatment upon her return from deployment. The Board concluded this was not a sufficient basis to upgrade her discharge.
- 4. The applicant claims that when she was in alcohol rehabilitation she was given the prescription drug Trazadon for insomnia. She contends that this medication would make her drowsy and lethargic thus making her late for work. The Board discussed that applicant's medical history. The DRB concluded that the applicant was personally responsible for arriving on time for work and appointments. The Board concluded this was not a sufficient basis to upgrade her discharge.
- 5. The applicant stated that she was raped in her dorm room. An Office of Special Investigations (OSI) report dated October 5, 2004, stated that the applicant alleged she had been raped sometime in July or August 2004. The Board reviewed the OSI report and the applicant's medical records. The Board noted no issue or impropriety was found or discovered that would justify an upgrade to her discharge.
- 6. Applicant stated that after she submitted a Congressional about her case her chain of command retaliated by discharging her with a General under honorable conditions discharge. The Board reviewed and discussed the applicant's discharge package and military records. The DRB could find no evidence that the applicant's chain of command acted improperly or without justifiable reason.

<b>CONCLUSIONS:</b> 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 FORCE DISCHARGE REVIEW BOARD ANDREWS AFB, MD

(Former A1C) (HGH A1C)

1. MATTER UNDER REVIEW: Applied a gen Disch fr Nellis AFB, NV on 23 May 05 UP AFI 36-3208, para 5.26.3 & 5.49 (Unsatisfactory Performance - Failure to Progress in On-The-Job Training & Minor Disciplinary Infractions). Appeals for Honorable Discharge.

#### 2. BACKGROUND:

- a. DOB: 29 Jun 83. Enlmt Age: 19 7/12. Disch Age: 21 10/12. Educ: HS DIPL. AFQT: N/A. A-67, E-61, G-72, M-71. PAFSC: 6F031 Financial Management Apprentice. DAS: 6 Dec 03.
  - b. Prior Sv: (1) AFRes 20 Feb 03 9 Jun 03 (3 months 20 days) (Inactive).

#### 3. SERVICE UNDER REVIEW:

- a. Enlisted as AB 10 Jun 03 for 4 yrs. Svd: 01 Yrs 11 Mo 14 Das, all AMS.
- b. Grade Status: A1C 11 Oct 04 Amn - 11 Dec 03
- c. Time Lost: None.
- d. Art 15's: None.
- e. Additional: ROE, 04 APR 05 End of Course failure.
  - LOR, 22 MAR 05 Failure to report to duty and making a false statement.
  - LOR, 20 JAN 05 Late for work on 4 occasions.
  - LOR, 28 DEC 04 Failure to follow instructions.
  - LOC, 15 DEC 04 Dereliction of duty.
  - LOR, 16 DEC 04 Late for work.
  - LOR, 13 DEC 04 Failure to go.
  - LOR, 09 DEC 04 Failure to go.
  - LOR, 05 NOV 04 Failure to report to duty on time.
  - ROE, 08 NOV 04 End of Course failure.
  - RIC, 14 OCT 04 Late for work.
- f. CM: None.
- g. Record of SV: 10 Jun 03 09 Mar 05 Nellis AFB 2 (Initial) REF
- h. Awards & Decs: AFAM, NDSM, AFTR, GWOTEM, GWOTSM.
- i. Stmt of Sv: TMS: (02) Yrs (03) Mos (04) Das

TAMS: (01) Yrs (11) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 23 Jun 05. (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

## ATCH

1. Applicant's Issues.

23AUG05/ia

June 26, 2005

AIR FORCE REVIEW BOARDS AGENCY SAF/MRBR 550-C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742

To Whom It May Concern

My name is \_\_\_\_\_\_ On June 10, 2003 at the age of 19 I joined the U.S. Air Force. My grandfather is a retired Marine, and my father who was an Apache Helicopter Pilot, died in service, October 29, 1990, during Desert Storm. At the time of my enlistment I believed serving my country would be an opportunity for me to honor my father's memory, and in general, an honorable thing to do.

During Basic Training, not once did I receive any reprimands from any of my T.I.'s. I finished Basic Military training on time and with much praise from each of my T.I.'s. It was upon completion of Basic Training, I strongly believed, and concluded, I would build a career for myself in the U.S. Air Force. I arrived at my first duty station, Nellis AFB, Las Vegas, Nevada in the beginning of December 2003. Between December 2003 and 3 March 2004, I was progressing very well, thriving in my new environment and excited about the path I had chosen for my life. I established a good rapport with my Supervisors and others in my chain of command. I was performing well, learning my job and the "ropes" of being Active Duty Air Force. I was thrilled to be in an environment which would allow me to grow and flourish.

I deployed to Baghdad, Iraq 3 March 2004. The first month of my deployment could be considered "quiet" (so to speak) although we underwent "Army Red" many times. We were under attack countless times, Mortars and Rockets were coming down all around us, some not more than 50 feet from where I was standing. Early on, I was assigned the Detail of escorting fallen soldiers who had been executed the prior day, to the morgue. With a heavy heart and thoughts of sadness for my fellow soldiers, their families and loved ones, I escorted these heroes in their wooden coffins and bid them a silent thank you and farewell.

While trying to phone home many times I had to ditch the phones and seek cover because of an attack. Numerous times I would awaken in the middle of the night from a nearby blast or explosion, feeling the shock go through my body, fearing for my life, terrified I may never see my family again. I lived in a fear I had never known, and never want to experience again.

In June, 2004, I returned to Nellis Air Force Base, still shaken from the whole ordeal of being in a war zone. I was very relieved to be home and as soon as possible went to spend precious time with my family. After being on leave, I returned to Nellis, assuming my duties and responsibilities. Shortly after, I started suffering nightmares of being back in a war zone, being killed, tortured, or of being kidnapped by Third Country Nationals, people I was assigned to escort while in Iraq. When I would hear loud noises of any kind, an alarm, a siren, or even loud voices I would experience what I believe, are "flashback" type episodes. These flashback type episodes are still occurring to this day.

Since I returned from Iraq, to my duty station at Nellis AFB, two of my grandmothers passed away, and I was Raped in my dorm room. I reported the incident to my immediate Supervisor who explained, I must file a report about the rape. Knowing the criminal justice system has more power to help rape victims than any other institution, I did as I was advised. An investigation ensued by the Air Force Office of Special Investigation (AFOSI) on October 5, 2004. I naively believed the authorities would be taking care of the individual who attacked me.

I remember being in my room one evening, and deciding to visit a fellow airman on the second floor of my dorm building. When I arrived, there was a male individual I had never seen before, present in the room, and they had been drinking. We visited for a short time and the male individual, whom I did not know, in the room offered me a beer, I accepted, he retrieved the drink and brought it to me. Brief conversation ensued and I returned to my room. I was there between 5 – 9 minutes. Shortly after returning to my room, the same two males knocked on my door. A conversation began between me and the unknown individual. He began making sexual advances toward me and I refused his advances. It was at this time, my fellow Airman left. I remember waking up with the stranger fully engaged in raping me. I fell unconscious and the next thing I remember was waking up in my fellow Airman's room in his shower, being told to "Clean Up" by the Airman who left me to be Raped by his friend.

Date rape drugs are substances which cause a victim to pass out so they cannot resist what is being done, and they will not be able to recall what happened to them either. Most date rape drugs are colorless, odorless and tasteless or have taste that can be masked so that they can easily be slipped into a victims drink without the victim noticing. In most cases the victim will have no memory of what happened, but will have the physical symptoms of having had sexual intercourse. Sometimes the victim will intermittently wake up during the assault and have partial memories of it. Either way, the victim usually wakes up very confused and simply assumes that they had had too much to drink and blacked out. Rape victims where date rape drugs were used are even less likely to report the crime than other rape victims. They often feel responsible because they feel as if they simply drank too much, and they can't remember anything that actually happened. The effects of the drugs can also last for a few days after the assault,

which causes the victim to not be able to think clearly. By the time they do think to report what happened all of the evidence might be gone making the crime extremely difficult to prosecute.

Up until then, I had always believed that rape was impossible if a woman didn't want to be raped, that it could only happen to a woman who submits. But I found out how a woman can be totally immobilized. It is very hard to describe the shock of what had happened...Then I thought of calling the police. And I thought no, I can't do that. It's too much of a horror story. People would look at me differently. If it's so horrible to me, it must be horrible to other people. I didn't want anybody to know what happened to me."

I was admitted involuntarily to Monte Vista Rehabilitation Center for alcohol dependency for a 26 day rehab program. While there, the Psychiatrist treating me prescribed Trazadone 10 mg. for insomnia, a medication which when taken, would allow my body would relax somewhat, and I could finally doze off into a light sleep in the early morning hours, providing me with 2 – 3 hours of sleep on the nights I would fall asleep. This medication creates the sensation of waking up with a strong hangover. Functioning in a sleep deprivation condition, I was in a continual state drowsiness, and lethargy. My mind was not in proper working order, dysfunctional would be more like it. I was late to work, began missing appointments, falling behind in my studies and Physical Training.

After my release from Monte Vista Rehabilitation Center, I asked my Commander if I could change dorm rooms because I did not feel safe in my room. He asked for an explanation. I did not want to go into the details of the rape, because I did not want to relive being raped all over again. When questioned about why I wanted to change rooms, I had to explain the rape and the details surrounding it. The response of the Commander was shocking and repulsive. He asked me "Are You Sure, The Air Force Is For You?"

I quickly understood, there would be No Support from my Superiors, and I was completely alone in this. I was so shocked at the Commander's response, I was emotionally drained, and flooded with feelings of sadness, guilt, blame, and enormous fear that this could happen again. I was so alone! An Investigation by the Office of Special Investigations (OSI) was initiated. By now, I believed the authorities and my Superiors were going to do nothing to the individual who raped me. It was at this time, my performance began to suffer. My appearance was not up to par, the sadness and isolation was overwhelming, I began to drink and soon I was drinking heavily. I felt I was not safe in my room and certainly not safe with a rapist free to rape again, a rapist who the authorities did nothing about. I knew I was having difficulty coping with normal every day responsibilities, I begged for someone to help me, to hear me and to fix me. A month later I self admitted to "3F" Psychiatric ward at the hospital on base, in order to be in a safe place. I was there for 5 days. At this time, is when I had to deal with the passing of one of my grandmothers, and shortly thereafter, another.

I sought help from every avenue possible: My Supervisors, My First Shirts, My Commander, Life Skills, Chaplains, MEO, ADC, also the IG. I literally begged for someone to help me through all I have had to go through. Every time I asked for help or sought out advice on what I needed to do for myself I seemed to get NO help from any agency or person I sought out.

After my release from the hospital I returned to work. Extremely uncomfortable with male co-workers, and a sense of being nothing more than refuse to my Commander, I was indeed a very small insignificant nothing. The emotions were overwhelming and it became nearly impossible, at best, in my day to day duties and responsibilities. I believed I could trust No One! I could not sleep at night, I was exhausted!

Having experienced the gross lack of concern for me from my Commander in response to my having been raped, I was in a constant fear of self survival and protection. On March 22, 2005 I reported to work at 0840. I had missed Physical Training and arrived late that day. I was questioned about why I was not at Physical Training and I immediately panicked, terrified, remembering so vividly, my Commander's response to the sexual assault I had lived through. Knowing I had not gotten to work on time, I lied about being at Physical Training. I was asked again, in the same conversation, if I had been at Physical Training. I was ashamed I had lied and admitted the truth, I had not been at PT and tried to explain about being on medication, the insomnia I was suffering from, the rape and recent events. All to no avail, it fell on deaf ears. They wanted to hear nothing of what I had to say. I was reprimended

Shortly after this incident, I was informed, I would be receiving an Article 15, Reduction in Grade, and a forfeiture of pay as a result of my actions. I phoned in the office of US House of Representatives, Congress Member and explained, I had a wonderful service career up to the time I returned home from Iraq. I further described the slow erosion and deterioration of my performance, and of the loss of my grandmothers and of the horrible rape I had survived, and of what I believed to be the cause and effect of everything that had happened up to the time I contacted him. I also stated, I take complete and total responsibility for my actions which I have control over, however, I was desperate for someone to help me through this situation.

Together we initiated a Congressional Investigation into the matters I had described. When the paperwork was submitted and individuals were contacted. I was called into my Chief's Office, (Chief Master Sergeant, ). He told me, not to discuss what he was about to tell me, with my co-workers and peers, because it would "set a bad precedent." He went on to say, I Would Not be receiving a reduction in pay, and that I Would Not be forfeiting my Stripes, and I would not be served with an Article 15. He further stated, my Congressional

Investigation Had Nothing To Do With their Decision not to pursue the Article 15. And then he told me to go back to my desk and get to work.

I left his office, completely dumbfounded, relieved, scared and felt the world had just tilted on it's axis. However, I truly believed, the Congressional Investigation I had initiated was exactly the reason they did not pursue the charges they were going to bring against me. I am also convinced, it was at this time, I was unjustly targeted for discharge. I further believe my Supervisors felt the need for retaliation and they set out carefully designing my discharge so as not to allow me to utilize any benefits available to me if I had been discharged Honorably.

occasions and explained I should receive nothing less than an Honorable Discharge. He stated how my behaviors did not merit a Discharge of General under Honorable Conditions, to no avail!

According to Webster's Dictionary the definition of Uniform is as follows:

- 1. Not varying
- 2. Of the same form with others(~procedures)

By virtue of wearing the uniform of a United States Airman all soldiers should be treated fairly and equally. However, after I initiated a Congressional Investigation as mentioned earlier in this letter, I am convinced my Supervisors felt the need for retaliation and that I was targeted for discharge. Uniformity in the military is vital to the proper functioning of a machine as large as the United States Air Force. Most often this is the case, nonetheless, I was not given this consideration, for example...

While I was stationed at Nellis Air Force Base, a fellow Airman, was arrested for Drunk in Public, and Defacing Government Property. His penalty for this very serious crime was a reduction of one stripe. He soon regained that stripe and was promoted back to his previous rank progressing, promoting and moving forward, with the option of serving his time and discharging with an Honorable Discharge. My actions and behaviors Pale In Comparison to the crimes this and other individuals have committed. This is only one of many instances where uniformity is disregarded in the United States Air Force.

I believe the lack and denial of intervention and assistance, which is rightfully due to every member of the military, has been very detrimental to me, my well being, personal welfare, and future. Upon being discharged, I was informed I would be receiving a "General Under Honorable Conditions." I explained I felt I did not deserve this discharge, and expressed my concerns about receiving anything less than honorable, and stated I would dispute anything other than an Honorable Discharge. I was informed, I could upgrade the discharge very easily

by submitting the proper documentation. I asked if this was possible, and was told yes, I would be able to upgrade my discharge. I believed them and accepted the General Under Honorable Conditions Discharge without dispute.

After separating from the Air Force, I contacted a VA Representative at the Veterans Administration Regional Office in Muskogee Oklahoma. I have been informed the process to upgrade a discharge could take a very long time to upgrade my discharge.

I am writing this letter in the hopes someone will hear me and correct the injustice served to me by the United States Air Force. I believe each individual should be held accountable for their actions, and each situation is unique. I exercised in good faith, my right to pursue help for all I was experiencing and no one would hear me. In the hopes of being heard, I am sending you this letter, and I will continue sending this letter to anyone and everyone who will help me to have a voice. I believe my Supervisors have exercised grave misconduct in their pursuit to persecute me as a response to my having successfully initiated a Congressional Investigation. I love my country, and I feel I have a responsibility to honor my fathers memory and in no way bring any negative attention to the United States military. Notwithstanding, I have a responsibility to look out for my well being, which by far, take precedence over my concerns for military image. For the purposes of using the Montgomery GI Bill, and any other benefits available to Honorably Discharged Service members, I am pleading for my discharge to be upgraded to Honorable, and nothing less is acceptable.

June 10, 2003 Enlisted

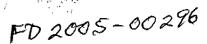
June 2004 Returned From Baghdad
Up until this time I had no issues or problems of discipline or any other issues of concern.

The items listed as reasons for my discharge consist of:

- Tardies to Work
- · Missed Appointments
- Missing PT
- Failing to score adequately on CDC's

I committed no crimes. My record clearly shows, I had no problems until after I returned from Baghdad, was Raped in my room, and had to deal with the deaths of my grandmothers. I believe my Supervisors failed miserably in their Supervisory duties, and sought me out as easy victim to be made an example of to others.

Sincerely





# DEPARTMENT OF THE AIR FORCE

99TH COMPTROLLER SQUADRON NELLIS AFB, NEVADA 89191

APR 2 9 2005

MEMORANDUM FOR A1C

FROM: 99 CPTS/CC

SUBJECT: Notification Memorandum

- 1. I am recommending your discharge from the United States Air Force for Unsatisfactory Performance: Failure to progress in on-the-job training (OJT) and Misconduct: Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraphs 5.26.3 and 5.49. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge.
- 2. My reasons for this action under paragraph 5.26.3 are:
- a. On or about 8 Nov 04, you failed your career development course (CDC) end-of-course (EOC) examination, as evidenced by the report of course examination dated 8 Nov 04; and
- b. On or about 4 Apr 05, you failed your CDC EOC examination, as evidenced by the report of course examination dated 4 Apr 05
- 3. My reasons for this action under paragraph 5.49 are:
- a. On 13 Oct 04, you failed to go at the time prescribed to your appointed place of duty. For your actions, you receive a Record of Individual Counseling (ROIC) dated 14 Oct 04; and
- b. On 21 Oct 04, you failed to go at the time prescribed to your appointed place of duty. For your actions, you received a Letter of Reprimand (LOR) dated 5 Nov 04; and
- c. On 9 Nov 04, you failed to go to a mandatory aftercare group appointment at the Mike O'Callaghan Hospital. For your actions, you received an LOR dated 9 Dec 04 and an Unfavorable Information File (UIF) was established; and
- d. On 6 Dec 04, you failed to properly report to mandatory group fitness at 0635. For your actions, you received an LOR dated 13 Dec 04; and
- e. On 15 Dec 04, you failed to properly report to work on time. For your actions, you received an LOR dated 16 Dec 04; and
- f. On or about 15 Dec 04, you were counseled on your failure to successfully complete your CDC material, to identify a training deficiency or supervisors involvement, and for not adequately preparing for your examination. For your actions, you received a Letter of Counseling (LOC) dated 15 Dec 04; and
- g. On 27 Dec 04, you failed to produce your CDC material upon request. For your actions, you received an LOR dated 28 Dec 04; and

72005-0029

h. Between on or about 10 Jan 05 and on or about 20 Jan 05, you failed to properly report to work on time on four different occasions. For your actions, you received an LOR dated 20 Jan 05; and
i. On 22 Mar 05, you knowingly gave a false statement in the presence of an NCO and you failed to report to duty at 0730. For your actions, you received an LOR dated 22 Mar 05.
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 the Area Defense Counsel at Bldg 625, on 2 HAY 05, at 1030 hours. You may consult civilian counsel at your own expense.
4. 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 \(\frac{1}{2005}\) at \(\frac{0830}{2000}\) hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.
5. 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 2 HAY 05 at 1400 hrs.
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 report to 99th Medical Group on 19 41× 05, at 1445 hours for the examination.
3. 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 your unit orderly room
, Lt Col, USAF / Commander
•

## Attachments:

- 1. Receipt of Notification Memorandum
- 2. Report of Course Examination, dated 8 Nov 04
- 3. Report of Course Examination, date 4 Apr 05
- 4. ROIC, dated 14 Oct 04
- 5. LOR, dated 5 Nov 04
- 6. LOR, dated 9 Dec 04
- 7. LOR, dated 13 Dec 04
- 8. LOR, dated 16 Dec 04
- 9. LOC, dated 15 Dec 04
- 10. LOR, dated 28 Dec 04 11. LOR, dated 20 Jan 05
- 12. LOR, dated 22 Mar 05
- 13. AF IMT 1137
- 14. AF Form 1058