

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)		GRADE AMN		
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	A92.01 A92.03 A93.24 A94.09	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	13 Feb 2006	CASE NUMBER	FD-2005-00301		

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.

SIGNATURE OF RECORDS MANAGER *[Handwritten Signature]*

INDORSEMENT		DATE: 2/14/2006
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	

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 his misconduct was of a minor nature. The records indicated the applicant received three Article 15s, two Letters of Reprimand, and four Letters of Counseling for misconduct. The misconduct included multiple violations of Correctional Custody policies, failure to go on five separate occasions, dereliction of duty, failure to follow instructions, late for an appointment, disrespect to a non-commissioned officer, disobeying a direct order not to consume alcohol, and arriving incapacitated for the proper performance of his duties. 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.
2. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.
3. Applicant believes that his punishment was excessive. The Board discussed the applicants' misconduct and the rehabilitation efforts made by his chain of command. The Board concluded that the actions taken by his superiors were appropriate.
4. Applicant contends that he was suffering from depression brought on by a menial job. The Board noted that the applicant was a Communications Computer Systems Operations Journeyman who was diagnosed with mild major depressive disorder and referred to the Life Skills Center. The DRB discussed how this disorder would affect his attitude and job performance. The Board concluded that the basis and characterization of the discharge received by the applicant were 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 AMN) (HGH SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Kelly AFB, TX on 12 Feb 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 15 Dec 65. Enlmt Age: 27 5/12. Disch Age: 32 1/12. Educ: HS DIPL. AFQT: N/A. A-90, E-86, G-90, M-68. PAFSC: 3C051 - Communications Computer Systems Operations Journeyman. DAS: 18 May 94.

b. Prior Sv: (1) AFRes 7 Jun 93 - 21 Nov 93 (5 months 15 days)(Inactive).

(2) Enlisted as A1C 22 Nov 93 for 4 yrs. Svd: 3 yrs 4 months 6 days, all AMS. SRA - 22 Mar 96. EPRs: 5,5.

3. SERVICE UNDER REVIEW:

a. Reenlisted as SRA 28 Mar 97 for 4 yrs. Svd: 00 Yrs 10 Mo 15 Das, all AMS.

b. Grade Status: AMN - 22 Dec 97 (Vacation of Article 15, 23 Jan 98)
A1C - 22 Dec 97 (Article 15, 22 Dec 97)

c. Time Lost: None.

d. Art 15's: (1) 23 Jan 98, Vacation, Kelly AFB, TX - Article 92. In that you, having knowledge of a lawful order by TSgt not to acquire a soda at breakfast while assigned to the Lackland AFB Correctional Custody Facility, an order which it was your duty to obey, did at Lackland AFB, Texas, on or about 15 Jan 98, fail to obey the same by attempting to acquire a soda at breakfast, which is a direct violation of the written policies of the Correctional Custody Program which you acknowledged receipt and understanding on 5 Jan 98. In addition to receiving two Letters of Counseling dated 7 Jan 98 and 12 Jan 98, you received one Letter of Reprimand dated 15 Jan 98. Reduction to Airman. (No appeal) (No mitigation)

(2) 22 Dec 97, Kelly AFB, TX - Article 86. You did, on or about 05 Dec 97, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Bldg 2000, 690th Intelligence Support Squadron. You

did, on or about 05 Dec 97, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Bldg 143, Substance Abuse Clinic. You did, on or about 09 Dec 97, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Bldg 2000, 690th Intelligence Support Squadron. You did, on or about 11 Dec 97, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Bldg 2009, Dorm Manager's office. You did, on or about 12 Dec 97, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Bldg 1623, SA-ALC Finance office. Article 107. You did, on or about 05 Dec 97, with intent to deceive make to TSgt your supervisor, an official statement, to wit: that you were scheduled to attend a substance abuse appointment at 0730 and was then known by you to be so false. Reduction to A1C. (Appeal/Withdrawn) (No mitigation)

- (3) 22 Dec 97, Kelly AFB, TX - Article 92. You, having knowledge of a lawful order issued by Maj. not to consume any alcohol, specifically stating no beer, no wine, and no other type of alcohol, an order which it was your duty to obey, did, on or about 16 Dec 97, fail to obey the same by wrongfully consuming alcohol. Article 134. You did, on or about 16 Dec 97, as a result of wrongful previous overindulgence in intoxicating liquor and/or drugs arrive incapacitated for the proper performance of your duties. Thirty days correctional custody. Suspended reduction to Airman. (Appeal/Withdrawn) (No mitigation)

- e. Additional: LOR, 15 JAN 98 - Direct violation of the written policies of the Correction Custody Program, by attempting to acquire a soda at breakfast.
 LOC, 14 JAN 98 - Attempting to acquire a soda and disrespect to an NCO.
 LOC, 12 JAN 98 - Failure to follow instructions.
 LOC, 07 JAN 98 - Dereliction of duty and failure to follow instructions.
 LOR, 09 DEC 97 - Late for appointment.
 LOC, 24 NOV 97 - Failure to report to duty at the required time.

f. CM: None.

g. Record of SV: 22 Jul 96 - 21 Jul 97 Kelly AFB 5 (Annual)

h. Awards & Decs: AFAM, AFLSAR, AFTR, NDSM, JMUA, AFOEA, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (08) Mos (06) Das
 TAMS: (04) Yrs (02) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 22 Jul 05.

(Change Discharge to Honorable)

Issue 1: Misconduct was minor (lateness).

Issue 2: Service was honorable (received Good Conduct Medal; asked to re-enlist; received highest rating on all previous EPRs).

Issue 3: Punishment was excessive (reduction of two grades; two Article 15s, where the second was unnecessary; 30 days correction custody).

Issue 4: Suffering from depression (brought on by a menial job; actively seeking counseling on my own. When this was discovered, my commander insisted on viewing my medical records; which destroyed my rapport with my therapist).

ATCH

1. Response to Article 15 Action, 22 Dec 97.
2. DD Form 149.
3. Response to Notification of Administrative Action.

31AUG05/ia



DEPARTMENT OF THE AIR FORCE
AIR INTELLIGENCE AGENCY

26 JAN 98

MEMORANDUM FOR SRA

FROM: 690 ISS/CC

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

1. I am recommending your involuntary discharge from the United States Air Force for a Pattern of Misconduct, 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 general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 21 Nov 97, you failed to go to your appointed place of duty at the time and place prescribed. For this infraction, you received a Letter of Counseling (LOC) on 24 Nov 97.

c. On or about 9 Dec 97, you failed to go to your appointed place of duty at the time and place prescribed. For this infraction, you received a Letter of Reprimand (LOR) dated 9 Dec 97.

d. On numerous occasions between on or about 5 Dec 97 and 12 Dec 97, you failed to go to your appointed place of duty at the time and place prescribed. You also made a false official statement on 5 Dec 97, with the intent to deceive your supervisor, which was then known by you to be false. For this misconduct, you received an Article 15 on 15 Dec 97. An Unfavorable Information File (UIF) was also established on 22 Dec 97.

e. On or about 16 December 1997, you, after having knowledge of a lawful order issued by Major [redacted] 690 ISS/CC, not to consume alcohol, specifically stating no beer, no wine, and no other type of alcohol, failed to obey the same by wrongfully consuming alcohol. Furthermore, as a result of the previous overindulgence in intoxicating liquor you arrived incapacitated for work and were unable to properly perform your duties. For this misconduct, you received your second Article 15 on 17 Dec 97 which was placed in your UIF on 22 Dec 97.

f. On or about 7 Jan 98, you failed to correct numerous discrepancies found in your personal living area inspection while assigned to Correctional Custody, Lackland AFB, Texas. Also, you were found sleeping in your bed, wearing your service uniform. These actions constituted violations of Correctional Custody written regulations. For this infraction, you received a LOC dated 7 Jan 98.

g. On or about 12 Jan 98, you exhibited substandard behavior concerning your actions directed towards superiors at Correctional Custody. In addition, you failed to comply with Air

Force standards, displayed an unprofessional attitude, and you failed to exhibit basic courtesies by becoming argumentative and insubordinate. For this misconduct, you received a LOC dated 12 Jan 98.

h. On or about 14 Jan 98, you again exhibited substandard behavior by attempting to acquire a soda at a vending machine which was in direct violation of the Correctional Custody regulations. You were fully aware of your responsibilities and the standards that must be maintained while assigned to the Lackland AFB Correctional Custody. For this infraction, you received a LOC dated 14 Jan 98.

i. On or about 15 Jan 98, you were observed attempting to acquire a soda at breakfast. This was your second attempt to circumvent the same Correctional Custody written regulation. For this misconduct, you received a LOR dated 14 Jan 98, and your suspended nonjudicial punishment was vacated on 23 Jan 98. This vacation action was placed in your already existing UIF on 23 Jan 98. You were also removed from Correctional Custody. This failure, plus your previous misconduct, forms the basis for this discharge.

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 a higher authority will decide whether you will be discharged from or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

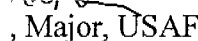
4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult THE ADC on 27 JAN 1998 at 0900 hours. You may consult civilian counsel at your own expense.

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 1630 on 29 JAN 98 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 report to at 0715 hours on 29 JAN 1998 for the examination.

8. 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 squadron's orderly room.


, Major, USAF

Commander

Attachments:

1. Airman's Acknowledgment of Receipt
2. Airman's Response Ltr

FD2005-00301

3. LOC dtd 24 Nov 97
4. LOR dtd 9 Dec 97
5. AF Form 3070 - Art 15 dtd 15 Dec 97
6. AF Form 3070 - Art 15 dtd 17 Dec 97
7. LOC dtd 7 Jan 98
8. LOC dtd 12 Jan 98
9. LOC dtd 14 Jan 98
10. LOR dtd 15 Jan 98
11. AF Form 366 - Vacation Action dtd 23 Jan 98
12. EPRs
13. AF Form 1137 (UIF)