

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST, MIDDLE INITIAL)		GRADE AB	AFSN/SSAN				
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 A93.01	INDEX NUMBER A67.50		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-2005-00337						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE							
<p>Case heard at Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>							
INDORSEMENT							
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-2005-00337

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.

ISSUE: Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The records show that the applicant received two Article 15s, two Letters of Reprimand, and four Letters of Counseling for misconduct. The misconduct included disorderly conduct, disrespect to a non-commissioned officer, disobeying a lawful order, traffic violations, failure to follow a direct order, failure to properly follow the chain of command, and wearing an earring while in uniform. The DRB recognized the applicant was 22 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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 F.E. Warren AFB, WY on 2 Aug 01 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Aug 78. Enlmt Age: 20 1/12. Disch Age: 22 11/12. Educ: HS DIPL. AFQT: N/A. A-83, E-64, G-70, M-37. PAFSC: 3P051 - Security Forces Journeyman. DAS: 10 May 99.

b. Prior Sv: (1) AFRes 16 Sep 98 - 01 Dec 98 (2 months 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 02 Dec 98 for 4 yrs. Svd: 02 Yrs 08 Mo 01 Das, all AMS.

b. Grade Status: AB - 01 Jun 01 (Article 15, 01 Jun 01)
Amn - 20 Sep 00 (Article 15, 20 Sep 00)
A1C - 02 Oct 99

c. Time Lost: None.

d. Art 15's: (1) 01 Jun 01, F.E. Warren AFB, WY - Article 134. You were, in Cheyenne, Wyoming, on or about 29 Apr 01, disorderly after having been told your employment with K-Mart was terminated by throwing a schedule at [redacted] the operations manager, knocking over a candy jar, clenching your fist at the said [redacted], damaging an eight foot table by turning it upside down, knocking down the pharmacy sign on your way out, and saying "Fuck K-Mart" over the PA system. Reduction to AB, restriction to F.E. Warren AFB, WY, for 45 days, and 45 days extra duty. (Appeal/Denied) (No mitigation)

(2) 20 Sep 00, F.E. Warren AFB, WY - Article 91. You, on or about 11 Sep 00, were disrespectful in language toward SSgt [redacted], a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of her office, by saying to her "I'm not signing any fucking paperwork" and "paperword doesn't scare me," or words to that effect. Reduction to Airman. Suspended reduction to AB. (No appeal) (No mitigation)

- e. Additional: LOR/CR, 30 MAR 01 - Disobey a lawful order, and disrespect to an NCO.
LOC, 31 JUL 00 - Several traffic violations.
LOC, 31 JUL 00 - Disobeying a lawful order.
LOR, 31 JUL 00 - Failure to follow a direct order.
LOC, 16 JUL 00 - Failure to properly follow the chain of command.
LOC, 14 MAY 00 - Wearing an earring while on base and in uniform.
- f. CM: None.
- g. Record of SV: 02 Dec 98 - 01 Aug 00 F.E. Warren AFB 3 (Initial)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (02) Yrs (10) Mos (17) Das
TAMS: (02) Yrs (08) Mos (01) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 17 Aug 05.
(Change Discharge to Honorable)

Issue 1: I would like to request an upgrade in my discharge because, although I try to go through life without any regrets, I do regret not leaving the Air Force on better terms. If I could do it all again, it would be different. I would do it the right way, by doing what I signed up for and staying in for the full four years (or maybe longer). I would make the most of my time there and I would make everyone proud of me. Now I realize that I cannot go back and do it all over, but I do have the opportunity to no longer regret having an Honorable W/General Conditions Discharge on my record. This is what I am respectfully asking for. Please upgrade my discharge to Honorable.

Thank you for your consideration on this matter.

ATCH
None.

23SEP05/ia



DEPARTMENT OF THE AIR FORCE
90TH SPACE WING (AFSPC)

23 JUL 2001

MEMORANDUM FOR AB

FROM: 790 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You were, in Cheyenne, Wyoming, on or about 29 Apr 01, disorderly, after having been told your employment with K-Mart was terminated, by throwing a schedule at ~~the~~ the operations manager, knocking over a candy jar, clenching your fist at the said ~~pharmacy~~ damaging an eight foot table by turning it upside down, knocking down the pharmacy sign on your way out, and saying "Fuck K-Mart" over the PA system, in violation of Article 134, UCMJ. For this offense, you were punished under Article 15, UCMJ, on 1 Jun 01. Punishment consisted of reduction to the grade of airman basic, restriction Francis E. Warren Air Force Base, Wyoming for forty-five days, and forty-five days extra duty.

b. You, having knowledge of a lawful order given to you by your Flight Sergeant stating that you will not be allowed to partake in off-duty employment, did, at or near Francis E. Warren Air Force Base, Wyoming, fail to obey the order and show disrespect to a Senior Noncommissioned Officer and Noncommissioned Officer by making a false statement about your employment. For this misconduct, you received a Letter of Reprimand (LOR), dated 30 Mar 01. This LOR was placed in your Unfavorable Information File (UIF).

c. You, at or near Francis E. Warren Air Force Base, Wyoming, on or about 11 Sep 00, were disrespectful in language toward Staff Sergeant ~~a~~ a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of her office, by saying to her "I'm not signing any fucking paperwork" and "paperwork doesn't scare me," or words to that effect, in violation of Article 91, UCMJ. For this offense, you were

punished under Article 15, UCMJ, on 20 Sep 00. Punishment consisted of reduction to the grade of airman and suspended reduction to the grade of airman basic. You also had a UIF established.

d. You did, at or near Francis E. Warren Air Force Base, Wyoming, in or about 2 months, accrue several traffic violations. For this misconduct, you received a Record of Counseling, dated 31 Jul 00.

e. You did, at or near Francis E. Warren Air Force Base, Wyoming, during the month of Jul 00, fail to obey a lawful order given to you by SSgt _____ your supervisor, to attend monthly training. For this misconduct, you received a Record of Counseling, dated 31 Jul 00.

f. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 20 Jul 00, fail to arrive at MSgt _____ retirement ceremony, as instructed by your Flight Sergeant, TSgt _____. For this misconduct, you received an LOR, dated 31 Jul 00.

g. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 10 Jul 00, fail to follow your proper chain of command by not notifying anyone in your chain of command about your status after receiving medical treatment. For this misconduct, you received a Record of Counseling, dated 16 Jul 00.

h. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 9 May 00, fail to obey an Air Force Regulation, 36-2903, Dress and Appearance of Air Force Personnel, by wearing an earring while on base and in uniform. For this misconduct, you received a Record of Counseling, dated 14 May 00.

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 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. I have made an appointment for you to consult with an attorney at the Area Defense Counsel's Office at Building 292, extension 3248, on 23 Jul 01 at 0930. 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 within three workdays after receipt of the notification memorandum, that date being 26 Jul 01, unless you request and receive an extension for good cause shown. I will send any statements you submit to the separation authority for his consideration.

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 Physical Exams at 0700 hours, on 24 Sep 01 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 in your Command Support Staff office.
9. Execute the attached acknowledgment and return it to me immediately.

, Maj, USAF

(Commander, 790th Security Forces Squadron

Attachments:

1. Article 15, dated 1 Jun 01
2. AF Form 1058 w/Atch: LOR, dated 30 Mar 01
3. Article 15, dated 20 Sep 00
4. Record of Counseling, dated 31 Jul 00
5. Record of Counseling, dated 31 Jul 00
6. LOR, dated 31 Jul 00
7. Record of Counseling, dated 16 Jul 00
8. Record of Counseling, dated 14 May 00
9. Other derogatory data not listed in the Notification Memorandum: three Armed Forces Traffic Tickets