

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

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

A95.00
A01.00

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

3 May 2006

CASE NUMBER

FD-2005-00360

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.

SIGNATURE OF RECORDER

SIGNATURE OF BOARD PRESIDENT

INDORSEMENT

DATE: 5/9/2006

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-2005-00360

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:

Issue 1. The records indicated the applicant received an Article 15 and a Vacation, for failures to go. He received three Letters of Reprimand for failure to go, failure to pass room inspection and a conviction by civil court for driving under the influence. The applicant also received a Letter of Counseling for failing to obey a lawful order in which he was directed to get a hair cut and had been counseled on two previous occasions concerning his dress and appearance. 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.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on February 13, 2002) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 3. The applicant stated he was led to believe his discharge would automatically be upgraded in six months. 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.

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 McChord AFB, WA on 19 Nov 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 8 May 82. Enlmt Age: 19 7/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-67, E-56, G-66, M-64. PAFSC: 1A231 - Aircraft Loadmaster Apprentice. DAS: 1 Dec 02.

b. Prior Sv: (1) AFRes 14 Dec 01 - 30 Jan 02 (1 month 17 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 31 Jan 02 for 4 yrs. Svd: 02 Yrs 09 Mo 20 Das, all AMS.

b. Grade Status: AMN - 01 Jul 04 (Vacation of Article 15, 16 Aug 04)
A1C - 31 May 03
AMN - 31 Jul 02

c. Time Lost: None.

d. Art 15's: (1) 16 Aug 04, Vacation, McChord AFB, WA - Article 86. You, did, on or about 2 Aug 04, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 5 Aug 04, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman. (No appeal) (No mitigation)

(2) 1 Jul 04, McChord AFB, WA - Article 86. You did, on or about 18 Jun 04, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to Airman. Restriction to McChord AFB, WA for 30 days, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 28 JUL 04 - Convicted in Civil Court of DUI.
LOR/UIF, 08 JUN 04 - Failure to go.
LOR, 17 MAR 04 - Failed room inspection.
LOC, 10 DEC 03 - Failure to obey a lawful order.
RIC, 24 FEB 03 - Failure to go.

f. CM: None.

g. Record of SV: 31 Jan 02 - 30 Sep 03 McChord AFB 5 (Initial)
01 Oct 03 - 30 Sep 04 McChord AFB 1 (Annual)REF

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (06) Das
TAMS: (02) Yrs (09) Mos (20) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 07 Sep 05.
(Change Discharge to Honorable)

Issue 1: I am requesting an upgrade of my discharge. I was led to believe that I would be eligible for all my VA benefits (sic) including the GI Bill, and that my discharge would automatically be upgraded to honorable after 6 months, if I accepted this discharge. It was not until later that I found out that I was not eligible for my benefits (sic) and requested to stay in the military at which time I was told it was too late to change.

ATCH

1. DD Form 214.
2. Certificate of Achievement.
3. Three Aircraft Commander's Reports on Crew Member.
4. Six Training Certificates.
5. Letter of Appreciation.

25OCT05/ia

DEPARTMENT OF THE AIR FORCE
10TH AIRLIFT SQUADRON (AMC)

OCT 29 2004

MEMORANDUM FOR AIRMAN:

FROM: 10 AS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force based on minor disciplinary infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, para 5.49. If my recommendation is approved, then your service will be characterized as honorable or general (under honorable conditions). I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 05 Aug 04, you failed to go at the time prescribed to your place of duty. For this infraction, your suspended punishment was vacated. You were punished with a reduction to Amn. This action was placed in your existing Unfavorable Information File (UIF). (See Atchs 1a and 1h.)

b. On or about 02 Aug 04, you failed to go at the time prescribed to your place of duty. For this infraction, your suspended punishment was vacated. You were punished with a reduction to Amn. This action was placed in your existing Unfavorable Information File (UIF). (See Atchs 1a and 1h.)

c. On or about 18 Jun 04, you failed to go at the time prescribed to your place of duty. For this infraction, you received an Article 15. This action was placed in your existing UIF. (See Atchs 1b and 1h.)

d. On or about 14 Jun 04, you operated a motor vehicle while intoxicated. You subsequently pled guilty to driving under the influence (DUI) and received a fine, a jail sentence and suspension of your civilian driving privileges. For this infraction, you received your third Letter of Reprimand (LOR). This action was placed in your existing UIF. (See Atchs 1c and 1h.)

e. On 7 Jun 04, you failed to show at a scheduled appointment. For this infraction you received your second LOR. This action initiated your UIF. (See Atchs 1d and 1h.)

f. On 2 Mar 04, you failed to maintain your dorm room in inspection order. For this infraction you received your first LOR. (See Atchs 1e and 1h.)

g. On 09 Dec 03 you were ordered to get a haircut, an order which you failed to obey. For this infraction you received a Letter of Counseling (LOC). (See Atch 1f.)

h. On 24 Feb 03, you failed to show at your appointed place of duty. For this infraction you received a Record of Individual Counseling (RIC). (See Atch 1g.)

3. I have attached copies of the documents to be forwarded to the separation authority in support of my recommendation. The commander exercising special court-martial (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, then you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel is available to assist you. You have an appointment to consult Area Defense Counsel, 305 6th Street, McChord AFB, WA 98438, 982-2240, on 04 Nov 04 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 that you want the separation authority to consider must reach me by 5 NOV 04 1200hrs (three workdays) unless you request and receive an extension for good cause. I will forward any such statements to the separation authority.

6. If you fail to consult counsel or to submit statements in your own behalf, then your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a mandatory Transition Pre-separation Counseling appointment at the Family Support Center, bldg 551, on 02 Nov 04 at 1330 hours.

8. You have been scheduled for a medical examination. You must report to Family Practice in building 690, on 04 Nov 04 at 0745 hours with your medical records.

9. The Privacy Act of 1974 protects any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the orderly room.

10. Execute the attached acknowledgment and return it to me immediately.

Commander

Attachments:

1.
 - a. AF Form 366, dated 16 Aug 04
 - b. AF Form 3070, dated 1 Jul 04, w/ atchs
 - c. LOR, dated 28 Jul 04
 - d. LOR, dated 8 Jun 01
 - e. LOR, dated 17 Mar 04
 - f. LOC dated 10 Dec 03
 - g. RIC dated 24 Feb 03
 - h. AF Form 1137, undated

2. Airman's Receipt of Notification Memorandum