

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	X	PERSONAL APPEARANCE	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">YES</td> <td style="width:50%; padding: 2px;">No</td> </tr> <tr> <td style="text-align: center; padding: 2px;">X</td> <td style="padding: 2px;"></td> </tr> </table>	YES	No	X			
YES	No					
X						

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
					X
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ISSUES A92.15 A92.21 A94.05 A92.05	INDEX NUMBER A67.10	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 2px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 2px; text-align: center;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 2px; text-align: center;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 2px; text-align: center;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px; text-align: center;">4</td> <td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">TAPE RECORDING OF PERSONAL APPEARANCE HE</td> </tr> </tbody> </table>	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 HE
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HEARING DATE 15 Nov 2006	CASE NUMBER FD-2005-00403	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard in 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: 11/17/2006
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

FD-2005-00403

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Travis AFB, CA, via video-teleconference with Andrews AFB on 15 November 2006. The following witness observed the hearing but did not testify on the applicant's behalf: Ms: [REDACTED] mother.

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. Although not explicitly stated, applicant contends his discharge was inequitable because it was too harsh. He further stated his discharge was due to a misunderstanding concerning his possession of a valid motorcycle license. The records indicated the applicant received a general discharge for minor disciplinary infractions. He received an Article 15, a Vacation, four Letters of Reprimand, two Letters of Counseling, three Records of Individual Counseling and an AETC Form 125A for misconduct. The applicant was administratively disciplined for failure to comply with dress and appearance standards, failure to report to a mandatory formation, making a false official statement, failure to shave, being disrespectful to an NCO, improper wear of his uniform, unexcused absence, failure to obey an order, and failure to keep his room in inspection order. He had further misconduct and received an Article 15 for failure to go to his appointed place of duty, failure to remain within the limits of Sheppard AFB, TX, and failure to wear the appropriate uniform while in Phase I. He was reduced in grade to Airman Basic, forfeited \$500.00 pay which was suspended, and 21 days of extra duty. He received a Vacation to his Article 15 for being derelict in the performance of duties by failing to eat breakfast at the prescribed time. On April 1, 2004, the applicant was eliminated from technical school training for failure to meet military standards. He had numerous occasions in which he had been verbally counseled and administratively disciplined for failure to conform to military standards. 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. 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, letters of recommendation 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.

Issue 3. The DRB was pleased to see that the applicant was doing well, has a good job and continuing with his education. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of 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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Sheppard AFB, TX on 12 May 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 17 Sep 84. Enlmt Age: 18 4/12. Disch Age: 19 7/12. Educ: HS DIPL. AFQT: N/A. A-86, E-85, G-86, M-76. PAFSC: 2A312 - Avionics Systems Helper. DAS: 16 Jul 03.

b. Prior Sv: (1) AFRes 13 Feb 03 - 31 Mar 03 (1 month 19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 01 Apr 03 for 6 yrs. Svd: 01 Yrs 01 Mo 12 Das, all AMS.

b. Grade Status: AB - 23 Mar 04 (Article 15, 23 Mar 04)
Amn - 3 Oct 03

c. Time Lost: None.

d. Art 15's: (1) 8 Apr 04, Vacation, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 25 Mar 04, were derelict in the performance of those duties in that you willfully failed to eat breakfast at the prescribed time, as it was your duty to do. Forfeiture of \$500.00 pay. (No appeal) (No mitigation)

(2) 23 Mar 04, Sheppard AFB, TX - Article 86. You did, on or about 3 Mar 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: mandatory detail formation. Article 92. You, who knew or should have known of your duties, on or about 6 Mar 03, were derelict in the performance of those duties in that you willfully failed to remain within the limits of Sheppard AFB, Texas and willfully failed to wear the appropriate military uniform while in Phase I, as it was your duty to do. Reduction to AB. Suspended forfeiture of \$500.00 pay. Twenty one days extra duty. (No appeal) (No mitigation)

e. Additional: AETC 125A, 31 MAR 04 - Withdrawn from training.
LOR, 05 APR 04 - Failure to obey an order or regulation.
LOC, 01 MAR 04 - Failure to keep room in inspection order.

f. You did, at or near Sheppard AFB TX, on or about 29 Aug 03, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: morning parade. For this misconduct you received an AF Form 174, Record of Individual Counseling, on 29 Aug 03.

g. You did, at or near Sheppard AFB TX, on or about 29 Aug 03, display a flagrant disregard for authority and disrespect for a noncommissioned officer. Specifically, you "stomped" away from SSgt [redacted] and ignored her attempt to speak to you. For this misconduct you received an AF Form 174 on 29 Aug 03.

h. You did, at or near Sheppard AFB TX, on or about 27 Aug 03, report for duty unshaven and with a stained uniform. For this misconduct you received an LOR on 27 Aug 03.

i. You did, at or near Sheppard AFB TX, on or about 21 Aug 03, with intent to deceive, state to Mr. [redacted] that you were in phase III, which statement you knew to be false. For this misconduct you received an LOR on 25 Aug 03.

j. You did, at or near Sheppard AFB TX, on or about 21 Aug 03, without authority, failed to go at the time prescribed to your appointment place of duty, to wit: mandatory formation. For this misconduct you received an LOC on 21 Aug 03.

k. You did, at or near Sheppard AFB TX, on or about 20 Aug 03, report for duty out of compliance with AFI 36-2903. Specifically, scuffed shoes, smudged belt, lint on slacks, and unshaven. For this misconduct you received an AF Form 174 on 20 Aug 03.

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 will probably be denied enlistment in any component of the armed forces.

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 Capt. [redacted] extension 6-2186, the ADC, at building 1638 on 20 Apr 04 at 1000 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 22 Apr 04, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the 82d Medical Group, Bldg 1200, Student Health, at 1300 on 9 Feb 04.

7. 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 365 TRS Commanders Support Staff.

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



Commander

Attachments:

1. AF Form 366, 8 Apr 04
2. Response to AF Form 366/LOR, 6 Apr 04
3. LOR, 5 Apr 04
4. Detail Sign In/Out log, 24-25 Mar 04
5. AF Form 3070, 23 Mar 04
6. Response to Article 15, 15 Mar 04 w/6 atch
7. AF Form 1168, Amn [redacted], 8 Mar 04
8. AF Form 1168, A1C [redacted], 8 Mar 04
9. AF Form 1168, SSgt [redacted], 3 Mar 04
10. AF Form 1168, SSgt [redacted], 10 Apr 04
11. LOC, 1 Mar 04
12. MFR, MSgt [redacted], 1 Mar 04
13. AF Form 1168, TSgt [redacted], 2 Mar 04
14. LOR, 29 Aug 03
15. AF Form 174, Mr. [redacted], 29 Aug 03
16. AF Form 174, Mr. [redacted], 29 Aug 03
17. LOR, 27 Aug 03
18. LOR, 25 Aug 03
19. Response to LOR, 25 Aug 03
20. LOC, 21 Aug 03
21. Response to LOC, 23 Aug 03
22. AF Form 174, Mr. [redacted], 20 Aug 03
23. AETC Form 125A, 1 Apr 04
24. Student Training Report, 04008
25. MFR, A1C [redacted], 6 Feb 04
26. MFR, A1C [redacted], 15 Sep 03
27. Airman's Receipt of Notification Memo *wcl*