

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div> | GRADE SRA | AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div> |
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| TYPE GEN | PERSONAL APPEARANCE | X | RECORD REVIEW |
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| 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 |
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| ISSUES | INDEX NUMBER | EXHIBITS SUBMITTED TO THE BOARD | | | | | | | | | | | | | | |
| A92.15 A92.01 A92.03 A94.05 | A49.00 A67.10 | <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:20px; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table> | 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 |
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| HEARING DATE | CASE NUMBER |
| 28 Jul 2006 | FD-2005-00439 |

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

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| SIGNATURE OF RECORDER | SIGNATURE OF BOARD PRESIDENT |
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| ENDORSEMENT | DATE: 8/1/2006 |
| 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-2005-00439

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. Although not explicitly stated the applicant contends his discharge was inequitable because it was too harsh and it wasn't explained to him that with good behavior he could have cleared his personnel file of the Letters of Counseling (LOC's) and Letters of Reprimand (LOR's). The records indicated the applicant received three Letters of Reprimand and two Records of Individual Counseling for misconduct. The LOR's were administered for drug abuse, dereliction of duty, failure to go and violation of dress and appearance standards. He also received two Records of Individual Counseling for failure to obey a lawful order and being late for work. 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 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 January 19, 2000) 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.

If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise his right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community.

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 SrA) (HGH SrA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF Eielson AFB, AK on 6 Nov 02 UP AFI 36-3208, para 5.49 and 5.26.3 (Misconduct - Minor Disciplinary Infractions and Unsatisfactory Performance - Failure to Progress in On-The-Job Training). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 9 Jan 80. Enlmt Age: 19 10/12. Disch Age: 22 9/12. Educ: HS DIPL. AFQT: N/A. A-77, E-67, G-52, M-43. PAFSC: 2W131C - Aircraft Armament Systems Apprentice. DAS: 15 Jun 00.

b. Prior Sv: (1) AFRes 24 Nov 99 - 5 Jan 00 (1 month 12 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 6 Jan 00 for 6 yrs. Svd: 02 Yrs 10 Mo 01 Das, all AMS.

b. Grade Status: SrA - 18 Jun 02
A1C - 18 Feb 00

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR/UIF, 16 MAY 02 - Dereliction of duty and failure to go.
LOR/UIF, 13 MAY 02 - Violations of dress and appearance.
RIC, 08 APR 02 - Late for work.
LOR, 21 JUN 01 - Drug abuse.
RIC, 23 MAR 01 - Failure to obey a lawful order.

f. CM: None.

g. Record of SV: 6 Jan 00 - 31 Aug 01 Eielson AFB 4 (HAF Dir)
1 Sep 01 - 31 Aug 02 Eielson AFB 3 (Annual)

h. Awards & Decs: AFTR, NDSM, AFEM, AFOUA W/VALOR.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (13) Das
TAMS: (02) Yrs (10) Mos (01) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 09 Nov 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Forms 214 (Member 4 & 1).
3. Certificate of Recognition.
4. Load Training and Certification Document.
5. Letter of Support, 18 Oct 02.

22DEC05/ia

October 21, 2005

Dear Military Discharge Board:

My name is [redacted] and I am writing because I would like to get my discharge up graded from a general to an honorable discharge. My primary specialty was 2W131C (Armament Apprentice). An armament apprentice has to take two tests to so they can upgrade to a 2W151C. I passed my first test, but the second series of test, I didn't pass. I took the test twice and was still unable to pass. I was given the option to stay in the military or get out. I really didn't know what I wanted to do, and at the time I felt it was best that I got out. Probably with a little encouragement I would have stayed in.

I really enjoyed my job in the military. I wasn't the perfect airman at first. I had received three LOC (letter of counseling) and three LOR (letter of reprimand). The military took a while to get use to. I was still young and a little immature. In many cases, it takes time for first time airman to get adjusted to being so far away from home and away from family.

After getting adjusted I started to perform very well. I received Load Crew of the Quarter (Oct-Dec 01) and received Load Crew of the Month (March, June, July, August, and September). I also had a 100% pass rate on my QA evaluations. Before I was discharged from the military I received Load Crew of the Year for the 2002 physical year. Which I have not received my Certificate or trophy.

I was never told that with good behavior and my awards that my LOC's and LOR's could be thrown out by my first-sergeant. It was only mentioned to me after my discharge process had already been started. Having these incidents on my record made me feel that if I stayed in my career in the military would have gone no where. If I was given this information I feel I would have stayed in the military or received an Honorable Discharge.

Below is a list of my issues from section 8 of my DD form 293 and why I feel my discharge was inequitable:

1. It wasn't explained to me that with good behavior I could clear my personal file of the LOC's and LOR's that I received.
2. I was deployed to serve my country during war time. Also receiving Armed Forces Expeditionary Medal and Air Force Outstanding Unit Award w/ Valor
3. I received 100% pass rates on my Quality Assurance evaluations and Load Crew of the Year.

I hoped that I have explained well enough, why I feel I deserve the chance for an Honorable Discharge; I also need this Honorable Discharge to receive my Montgomery GI Bill. As you know, there aren't civilian jobs like an armament apprentice so I'm trying to get an education to better support my family. Thank you for your time and I appreciate your consideration.

Sincerely,

[redacted]



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

22 Oct 02

MEMORANDUM FOR 354 FW/CC

FROM: 354 FW/JA

SUBJECT: Legal Review of AFPD 36-32 and AFI 36-3208 Discharge Action – SrA: [REDACTED]
[REDACTED] 354 AMXS, PACAF

1. I have reviewed the discharge package of SrA: [REDACTED] and consider it legally sufficient to continue processing this action. The initiating commander recommends discharge pursuant to AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49, Misconduct – Minor Disciplinary Infractions, and paragraph 5.26.3, Unsatisfactory Duty Performance – Failure to Progress in On-the-Job-Training. The commander further recommends a general discharge characterization, without the opportunity for probation and rehabilitation (P&R). These recommendations meet the criteria set forth in AFI 36-3208 and are supported by a preponderance of the evidence.

2. DISCUSSION:

a. In support of this action, the commander cites the following reasons: (1) SrA [REDACTED] failed to obey a lawful order given to him by MSgt [REDACTED] to contact his dorm manager to resolve an issue concerning his moving from one room to another; (2) He actively acted as a “look out” while a civilian friend smoked marijuana; (3) He was delinquent in making his Military Star Card payment; (4) He failed to go to his assigned duty location at the prescribed time; (5) He was not in compliance with Air Force Dress and Appearance Standards when reporting to his duty location; (6) He failed to show up for a court appearance in Fairbanks, Alaska; (7) He failed his end-of-course examination with a score of 57; and (8) He again failed his end-of-course examination a second time with a score of 60. The misconduct is evidenced by three Letters of Reprimand, an Unfavorable Information File and two Records of Individual Counseling. The CDC failure is documented in the case file as is the opportunity afforded to him after the first failure to participate in supervised study during regular duty hours.

b. The foregoing also supports the commander’s recommendation to characterize SrA [REDACTED] service as general. Had the sole basis for discharge been his failure in on-the-job training, an honorable discharge would have been warranted. However, given his pattern of minor disciplinary problems, the significant negative aspects of his conduct outweigh the positive aspects

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of his record. Further, his service is not otherwise so meritorious that an honorable discharge is appropriate nor is his misconduct severe enough to warrant less than a general discharge characterization.

c. Finally, the commander's recommendation that SrA [redacted] not be given the opportunity for P&R is supported by the case file. The unit attempted, using various methods, to rehabilitate SrA [redacted] for continued military service. However, such attempts have proven ineffective. Continued P&R is, therefore, not appropriate for this case.

3. ERRORS AND IRREGULARITIES: None. All procedures required by AFI 36-3208 have been properly complied with and the case has been appropriately processed. SrA [redacted] was entitled to and did confer with legal counsel. He submitted matters for your review, which are located at tab 6.

4. OPTIONS FOR THE SPECIAL COURT-MARTIAL CONVENING AUTHORITY: As Special Court-Martial Convening Authority, you are the separation authority for this action. You may:

- a. Retain the Respondent in the Air Force;
- b. Direct the case be reinitiated under another paragraph, if you deem it appropriate;
- c. Recommend the Respondent be separated citing paragraph 5.49 as the primary reason, with an honorable discharge, with or without probation and rehabilitation, and forward the case to 11 AF/CC for action;
- d. Direct the Respondent be separated citing paragraph 5.49 as the primary reason, with a general discharge, with or without probation and rehabilitation; or
- e. Direct the Respondent be separated citing paragraph 5.26.3 as the primary reason, with an honorable discharge, with or without probation and rehabilitation.

5. RECOMMENDATION: I find that the reasons listed in the commander's report are sufficient to warrant discharge under AFI 36-3208, paragraphs 5.49 and 5.26.3. Given SrA [redacted] record as a whole, the recommendation that paragraph 5.49, Misconduct – Minor Disciplinary Infractions, be the primary basis for discharge is appropriate. Accordingly, I recommend that he be discharged

from the United States Air Force pursuant to AFI 36-3208, paragraphs 5.49 and 5.26.3, with paragraph 5.49 as the primary basis. I further recommend his discharge be characterized as general, without the opportunity for probation and rehabilitation.

[Redacted Signature]

Assistant Staff Judge Advocate

I concur.

[Redacted Signature]

Deputy Staff Judge Advocate

Attachment:

SrA [Redacted] Discharge Package

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES



16 Oct, 2002

MEMORANDUM FOR SRA: [REDACTED], 354 AMXS, PACAF

FROM: 354 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions and Unsatisfactory Duty Performance – Failure to Progress in On-the-Job Training. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraphs 5.49 and 5.26.3. 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 as follows:

a. On or about 19 Mar 01, you failed to obey a lawful order given to you by MSgt [REDACTED] to contact your dorm manager to resolve an issue concerning your moving from one room to another. For this infraction, you received a Record of Individual Counseling, dated 23 Mar 01 (Atch 1).

b. Between on or about 20 Feb 01 through on or about 23 Apr 01, you actively acted as a “look out” while a civilian friend smoked marijuana. For this, you received a Letter of Reprimand, dated 21 Jun 01 (Atch 2).

c. On or about 29 Nov 01, you were delinquent in making your Military Star Card Payment. For this infraction, your charge and check-cashing privileges were suspended (Atch 3).

d. On or about 8 Apr 02, you failed to go to your assigned duty location at the prescribed time. For this infraction, you received a Record of Individual Counseling, dated 8 Apr 02 (Atch 4).

e. On or about 10 May 02, you were not in compliance with Air Force Dress and Appearance Standards when reporting to your duty location. For this infraction, you received a Letter of Reprimand, dated 13 May 02 (Atch 5).

f. On or about 16 May 02, you failed to show up for a court appearance in Fairbanks, Alaska. For this infraction, you received a Letter of Reprimand, dated 16 May 02 (Atch 6).

g. On or about 20 Jun 02, you failed your end-of-course examination with a score of 57. As a result, you were placed on mandatory study time (Atch 7). Then on or about 28 Aug 02, you again failed your end-of-course examination a second time with a score of 60. This discharge action was then initiated (Atch 7).

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 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 Capt: _____; Area Defense Counsel, Building 3112, Room 143, Eielson AFB, Alaska, on 16 Oct 02 at 0900 1430. 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 (3 duty days) 21 Oct, 2002, 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 the Physical Examination Section, 354th Medical Group, Building 3349, at 1000 on 17 Oct 02 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 orderly room.

Commander, 354 AMXS

Attachments:

1. AF Form 174, dtd 23 Mar 01
2. Ltr of Reprimand, dtd 21 Jun 01 (2 pgs)
3. Military Star Card Memo, dtd 29 Nov 01
4. AF Form 174, dtd 8 Apr 02
5. Ltr of Reprimand, dtd 13 May 02
6. Ltr of Reprimand, dtd 16 May 02 w/AF Forms 1058 and 1137 (4 pgs)
7. Student History Query, dtd 11 Sep 02 (3 pgs)
8. Report of Investigation, dtd 26 Apr 01 (9 pgs)