

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
[]		AB	[]

TYPE GEN	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE	RECORD REVIEW
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No		
	<input checked="" type="checkbox"/>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[]	X				
[]	X				
[]		X			
[]	X**				
[]	X				

ISSUES	A94.06	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	CASE NUMBER
06 Apr 2006	FD-2005-00467

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 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.

* CHANGE RE CODE
 + CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
[]	[]

INDORSEMENT		DATE: 4/17/2006
TO:	FROM:	
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 06 Apr 2006. The following witness, MSgt (Ret.) _____; the applicant's grandfather, also testified on the applicant's behalf.

The following additional exhibits were presented before the Board:

- Exhibit #5: The applicant's resume with references
- Exhibit #6: Job Description
- Exhibit #7: Letters of Recommendation (3)

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants an upgrade of discharge to Honorable. The request for the change of reason and authority for discharge and change of reenlistment code is denied.

The Board finds that neither the evidence of record nor that provided by applicant which substantiates an impropriety that would justify a change of discharge. However, based collectively upon the record and evidence and testimony provided by applicant, the Board finds that the applicant's discharge was indeed too harsh and, thus, approved an upgrade of discharge to Honorable.

ISSUE: The applicant contends that his discharge was inequitable because it was "too harsh, considering all else that was going on" at the time. In reverse order of occurrence, the records indicated that the applicant received an Article 15 (for loitering and use of a personal cellular telephone while on duty), three Letters of Reprimand (one for a missed mandatory fitness appointment and twice late for duty) and one Letter of Counseling (late for duty for a third time), resulting in his discharge for a pattern of misconduct. In explaining the reasons for the recurring instances of tardiness, the applicant testified that he did not own a personal vehicle for transportation to and from work, and that the base did not provide transportation from his dormitory to his assigned to place of duty (Cheyenne Mountain complex), roughly a distance of 15 miles. The applicant instead reportedly relied upon a co-worker for transportation, who in at least one instance departed for work and left the applicant behind without notification. In another instance (4 April 2005), the applicant was required to report to duty at 1645, but instead showed up at 1720. The Board favorably considered the possibility that the applicant's tardiness was the result of forgetting about the change of time to Daylight Saving Time, as he testified was the case. The Board acknowledged that Air Force members are responsible to reaching their place of duty in a timely manner, regardless to the availability of base-sponsored transportation. However, the Board believed that the applicant's relative remote duty location and the lack of dedicated transportation from his place of residence created a unique obstacle, which otherwise would not have resulted in most of the applicant's instances of tardiness, were he assigned at any of the vast majority of Air Force installations where there is easy access to and from work or alternate modes of base transportation. With reference to the applicant's failure to attend a mandatory fitness appointment, the Board considered the possibility that he was unable to access the full text of an email notification to all affected personnel, as he testified. However, the Board noted that the applicant had access to alternative computer devices within his place of duty and that he could have consulted with his supervisor for clarification of the requirement, instead of choosing to rely upon his personal computer at his place of residence. With reference to the applicant's most serious instance of misconduct, and that which likely formed the principal basis for his discharge, the applicant testified that while he and a junior partner were posted as gate sentinels, each individual errantly failed to adequately monitor and clear a vehicle that entered the base without proper authorization, while reportedly distracted by either handling or using a personal cellular telephone. However, without the applicant's prompt notification of proper authorities, the unauthorized base entrant would not have been apprehended nor would command officials have been aware of the error. While the applicant's actions do not mitigate his failure to properly monitor a vehicle, the Board believed that he would likely not have received non-judicial punishment had he chosen

not to self-report the events that took place. The Board noted the expansive pre-service accomplishments of the applicant that reflect a positive work ethic and high moral character, to include his academic achievements, participation as a teacher's aide at a university, top Civil Air Patrol recognition, selection for a Congressional internship, and volunteer work in the Office of Presidential Student Correspondence (The White House). The Board also acknowledged the recognition of the applicant's leadership qualities, while serving as a member of the 332nd Drill Team, 332nd Training Squadron, Keesler AFB, Mississippi. Likewise, the Board was pleased to see the applicant's post-service accomplishments and his employment in the computer technology field in a public school system. While, none of the applicant's misconduct reflects favorably upon his Air Force career, in consideration of the totality of his military service, and the mitigating circumstances surrounding some of the applicant's misconduct, the Board believed his military service is best characterized as Honorable.

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.

However, in view of the special circumstances surrounding several instances of the applicant's misconduct, the Board concluded that the overall quality of his service is more accurately reflected by an Honorable discharge, but that the reason for discharge and the RE code shall remain unchanged.

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 USAF Peterson AFB, CO on 24 Jun 05 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 15 Sep 82. Enlmt Age: 21 5/12. Disch Age: 22 9/12. Educ: HS DIPL. AFQT: N/A. A-76, E-82, G-55, M-57. PAFSC: 3P031 - Security Forces Apprentice. DAS: 13 Dec 04.

b. Prior Sv: (1) AFRes 20 Feb 04 - 19 Apr 04 (2 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 20 Apr 04 for 4 yrs. Svd: 01 Yrs 02 Mo 05 Das, all AMS.

b. Grade Status: AB - 6 May 05 (Article 15, 6 May 05)

c. Time Lost: None.

d. Art 15's: (1) 6 May 05, Peterson AFB, CO - Article 92. You, who knew of your duties at or near Cheyenne Mountain AFS, Colorado, on or about 5 Apr 05, were derelict in the performance of those duties in that you willfully failed to refrain from talking on your personal cellular phone while posted as a sentinel, as it was your duty to do. Article 134. You, while posted as a sentinel, did, at or near Cheyenne Mountain AFS, Colorado, on or about 5 Apr 05, loiter on your post. Reduction to AB, and a reprimand. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 08 APR 05 - Failure to go.
LOR, 06 APR 05 - Late for duty.
LOR, 26 MAR 05 - Late for duty.
LOC, 15 MAR 05 - Late for duty for the third time in the past two months.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM, GWOTSM.

i. Stmt of Sv: TMS: (01) Yrs (04) Mos (05) Das

TAMS: (01) Yrs (02) Mos (05) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01 Dec 05.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I'm requesting an upgrade to my discharge because I plan on returning to the USAF Reserve Program as an officer and my current status makes me ineligible to receive the Montgomery GI Bill money towards finishing my education as a computer networking major.

ATCH

1. DD Form 214 (Member 1).
2. Copy of Discharge Correspondence.

25JAN05/ia



DEPARTMENT OF THE AIR FORCE
21ST SPACE WING (AFSPC)

FD2005-00467

23 MAY 2005

MEMORANDUM FOR AB: [REDACTED]

FROM: 721 SFS/CC

SUBJECT: Notification Memorandum

1. Recommendation: I am recommending your discharge from the United States Air Force for a Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service may be characterized as either Honorable, Under Honorable Conditions (General), or Under Other Than Honorable Conditions. I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reasons for this action are:

a. On or about 5 Apr 05, you were derelict in the performance of your duties in that you willfully failed to refrain from talking on your personal cellular phone while posted as a sentinel, as it was your duty to do. For this misconduct you received Nonjudicial Punishment dated 6 May 05. Punishment consisted of reduction to the grade of Airman Basic, with a new date of rank of 6 May 05. This information was added to your Unfavorable Information File (UIF) (Atch 1).

b. On or about 5 Apr 05, you were loitering on post. For this misconduct you received Nonjudicial Punishment dated 6 May 05. Punishment consisted of reduction to the grade of Airman Basic, with a new date of rank of 6 May 05. This information was added to your UIF (Atch 1).

c. On or about 4 Apr 05, you failed to attend a mandatory fitness appointment. For this misconduct, you received a Letter of Reprimand dated 8 Apr 05 and you were placed on the Control Roster. This information was added to your UIF (Atch 2).

d. On or about 4 Apr 05, you were late for duty. For this misconduct you received a Letter of Reprimand dated 6 Apr 05. This information was used to establish your UIF (Atch 3).

e. On or about 18 Mar 05, you were late for duty for the fourth time in a two-month period. For this misconduct you received a Letter of Reprimand dated 26 Mar 05 (Atch 4).

f. On or about 5 Mar 05, you were late for duty for the third time in a two-month period. For this misconduct you received a Letter of Counseling dated 15 Mar 05 (Atch 5).

3. Separation Authority: Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The

commander exercising Special Court-Martial jurisdiction or higher authority will decide whether you will be discharged or retained in the United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

4 Legal Rights:

- a. You have the right to consult counsel.
- b. Military legal counsel has been obtained to assist you.
- c. I have made an appointment for you to consult CAPT at PAFB ADC, on 23 MAY 05, at 1300 hours.
- d. You may consult civilian counsel at your own expense.

5 Submission of Statement:

- a. You have the right to submit statements in your own behalf.
- b. Any statements you want the separation authority to consider must reach me NLT 1600 hours on 20 May 05 2005 (3 workdays) unless you request and receive an extension for good cause shown.
- c. I will send them to the separation authority.

6 Waiver: 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 Medical Exam: You have been scheduled for a medical examination. You must report to Peterson Air Force Base Clinic, at 0940 hours on 25 MAY 2005 for the examination.

8 Privacy Act: 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 Unit Orderly Room.

9 Acknowledgement: Execute the attached acknowledgment and return it to me immediately.

[Redacted Signature Box]

Commander, 721st Security Forces Squadron

Attachments:

- 1. Nonjudicial Punishment, dated 6 May 05
- 2. Letter of Reprimand, dated 8 Apr 05
- 3. Letter of Reprimand, dated 6 Apr 05
- 4. Letter of Reprimand, dated 26 Mar 05
- 5. Letter of Counseling, dated 15 Mar 05