

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>
---	--------------------	---

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	UOHC	OTHER	DENY
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
					X
					X
					X
					X

ISSUES A94.53 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 28 Jul 2006	CASE NUMBER FD-2005-00483	
------------------------------------	-------------------------------------	--

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 <i>[Signature]</i>	SIGNATURE OF BOARD PRESIDENT <i>[Signature]</i>
--	---

INDORSEMENT	DATE: 7/31/2006
--------------------	------------------------

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

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE:

Issue 1. The applicant submitted no issues and requested that the review be completed based on the available service record. The records indicated the applicant received an Article 15 and a Letter of Reprimand for misconduct. The Article 15 was for being derelict in the performance of duties for failing to refrain from drinking alcohol while under the age of 21 and failure to go at the time prescribed to appointed place of duty. As a result, he was reduced to airman basic, as suspended forfeiture of pay and restriction to Malmstrom AFB for 60 days. He also received a Letter of Reprimand for being late to 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.

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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Malmstrom AFB, MT on 4 Mar 05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 23 Feb 85. Enlmt Age: 18 7/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-99, E-97, G-99, M-97. PAFSC: 2M032 - Missile and Space Systems Maintenance Apprentice. DAS: 19 Oct 04.

b. Prior Sv: (1) AFRes 8 Oct 03 - 26 Apr 04 (6 months 19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 Apr 04 for 4 yrs. Svd: 00 Yrs 10 Mo 08 Das, all AMS.

b. Grade Status: AB - 22 Dec 04 (Article 15, 22 Dec 04)
Amn - 27 Oct 04

c. Time Lost: None.

d. Art 15's: (1) 22 Dec 04, Malmstrom AFB, MT - Article 92. You, who knew or should have known of your duties, on or about 10 Dec 04, were derelict in the performance of your duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of 21, as it was your duty to do. Article 86. You, did, on or about 10 Dec 04, without authority, failed to go at the time prescribed to your appointed place of duty. Reduction to AB. Suspended forfeiture of \$250.00 pay per month for 2 months. Restriction to Malmstrom AFB, MT for 60 days. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 10 DEC 04 - Late for work.

f. CM: None.

g. Record of SV: None.

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

i. Stmt of Sv: TMS: (01) Yrs (04) Mos (27) Das
TAMS: (00) Yrs (10) Mos (08) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Dec 05.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. Character References.

01FEB06/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 341ST SPACE WING (AFSPC)

18 FEB 2005

MEMORANDUM FOR 341 SW/CC

FROM: 341 SW/JA

SUBJECT: Legal Review, Administrative Discharge Action - AB: [REDACTED]

1. I have reviewed the administrative discharge action against AB: [REDACTED]. The file is legally sufficient to process the discharge. For the reasons cited in this review, I concur with the recommendations of the commander.

2. FACTS:

a. On 10 Dec 04, AB: [REDACTED] arrived at work 3.5 hours late. This was the third failure to report in eight days and resulted in a letter of counseling and verbal reprimand. For the third failure to show up for duty on time, he received a letter of reprimand (LOR) dated 10 Dec 04.

b. On 10 Dec 04, he willfully failed to refrain from drinking alcohol while under the age of 21. For this misconduct, he received an Article 15 dated 22 Dec 05 with a punishment consisting of reduction to Airman Basic, forfeiture of \$250.00 pay per month for 2 months (suspended) and restriction to Malmstrom AFB for 60 days.

c. The Respondent consulted military legal counsel and affirmatively declined to submit a statement in his own behalf (Tab 4, Atch 3--see red marker).

3. DISCUSSION:

a. According to AFI 36-3208, para 5.49, airmen are subject to discharge for misconduct based on minor disciplinary infractions involving failure to comply with nonpunitive regulations or minor offenses under the UCMJ. Infractions of this type result, as a rule, in either informal or formal counseling, letters of reprimand, or Article 15 nonjudicial punishments. Respondent's LOC, verbal reprimand, LOR and Article 15 are the type of infractions contemplated by the instruction. Therefore, there is sufficient evidence to discharge Respondent under AFI 36-3208, para 5.49, for minor disciplinary infractions.

b. AFI 36-3208, Table 1.3 and para 5.49, provide that if the reason for discharge is for minor disciplinary infractions, the types of separation authorized are: honorable, general, or under other than honorable conditions (UOTHC) discharge.

c. There is sufficient evidence to support Lt Col: [REDACTED] recommendation for the Respondent's general discharge, under honorable conditions, for minor disciplinary infractions without an offer of probation and rehabilitation. A general discharge is warranted when significant

FOR OFFICIAL USE ONLY

Guardians of the High Frontier

negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. A general discharge is appropriate in this case because the negative aspects of the Respondent's conduct, evidenced by his LOC, verbal reprimand, LOR and Article 15, outweigh any positive aspects of his military record.

4. OPTIONS:

- a. Approve a general discharge, under honorable conditions, for minor disciplinary infractions with or without probation and rehabilitation.
- b. Disapprove the discharge action and order retention of Respondent.
- c. Recommend to 20 AF/CC that Respondent receive an honorable discharge for minor disciplinary infractions IAW AFI 36-3208, paragraph 5.49, with or without probation and rehabilitation.
- d. Return the case file to the unit in order to pursue an under other than honorable conditions (UOTHC) discharge against the Respondent.

5. **RECOMMENDATION:** I recommend you discharge AB: [] IAW 36-3208, para 5.49, for minor disciplinary infractions with a general discharge, under honorable conditions, without probation and rehabilitation, as recommended by Lt Col: []

[]

NCOIC, Civil Law

I concur.

[]

Staff Judge Advocate

Attachment:

Case File – AB: []

FOR OFFICIAL USE ONLY

Guardians of the High Frontier



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 341ST SPACE WING (AFSPC)

14 Feb 05
043

MEMORANDUM FOR 341 MMXS (ATTN: AB:)

FROM: 341 MMXS/CC *1/19*

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.49. 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:

a. On 10 Dec 04, you arrived at work 3.5 hours late. For this misconduct, you received a letter of reprimand (LOR) dated 10 Dec 04.

b. On 10 Dec 04, you were derelict in the performance of your duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of 21 and you failed to go at the time prescribed to your appointed place of duty which was building 1440. For this misconduct, you received an Article 15 dated 22 Dec 05 with a punishment consisting of reduction to airman basic, forfeiture of \$250.00 pay per month for 2 months (suspended) and restriction to Malmstrom AFB for 60 days.

3. 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 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 the Area Defense Counsel, x4723, 7015 Goddard Drive, Bldg 145, Room 144 on 15 Feb 05 at 1400. 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 COB 16 Feb 2005 (3 duty days) unless you request and receive an extension for good cause shown. I will send all submitted statements to the separation authority.

FOR OFFICIAL USE ONLY

Guardians of the High Frontier

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 341st Medical Group Force Health Management Section, x4405, at _____ hours on _____ for the examination. You **MUST** be in uniform for this appointment. If you wear glasses, you must also bring them to this appointment.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208, *Administrative Separation of Airmen*, is available for your use at your orderly room.

9. Execute the attached acknowledgement and return it to me immediately.



Commander, 341st Missile Maintenance Squadron

Attachments:

1. Supporting documents:
 - a. UIF Summary
 - b. LOR dated 10 Dec 04
 - c. Article 15 dated 22 Dec 04
 - d. Documents in Attachment 6
2. Airman's Receipt of Notification Memorandum