

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

ISSUES A95.00 A01.00	INDEX NUMBER A67.00	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="width:5%; text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="width:5%; text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="width:5%; 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 HE</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 HE
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HEARING DATE 21 Nov 2006	CASE NUMBER FD-2006-00083	
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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, 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.

ENDORSEMENT TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	DATE: 12/12/2006 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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00083

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:

Applicant contends that he has completed the time required to have his discharge upgraded. The records indicated the applicant received two Article 15's, a Vacation, two Letters of Reprimand, and Records of Individual Counseling for misconduct. The applicant was administratively disciplined for being late for duty, failure to go, and dereliction of duty. His first Article 15 was for missing the movement of Flight Mission, failing to follow an order to refrain from using alcohol, and making an official statement with intent to deceive. He was punished with a reduction in grade to Airman First Class, 45 days restriction, and 45 days of extra duty. The second Article 15 was for failure to go to appointed place of duty and failure to properly inspect a toolbox. He received a suspended reduction in grade to Airman and 30 days of extra duty. He received a Vacation for failure to go to appointed place of duty and was reduced in grade to Airman. 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. 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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Dyess AFB, TX on 23 Jun 05 UP AFI 36-3208, para 5.50.1 (Pattern of Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 22 Feb 77. Enlmt Age: 19 11/12. Disch Age: 28 4/12. Educ: HS DIPL. AFQT: N/A. A-32, E-40, G-44, M-61. PAFSC: 2A753 - Aircraft Structural Maintenance Journeyman. DAS: 14 May 03.

b. Prior Sv: (1) AFRes 5 Feb 97 - 6 May 97 (3 months 2 days) (Inactive).

(2) Enlisted as AB 7 May 97 for 4 yrs. Svd: 3 yrs 6 months 5 days, all AMS. AMN - 7 Nov 97. A1C - 7 Sep 98. SrA - 7 May 00. EPRs: 3,3.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 13 Nov 00 for 6 yrs. Svd: 04 Yrs 07 Mo 10 Das, all AMS.

b. Grade Status: Amn - 8 Apr 05 (Vacation of Article 15, 18 May 05)
A1C - 4 Feb 05 (Article 15, 4 Feb 05)

c. Time Lost: None.

d. Art 15's: (1) 18 May 05, Vacation, Dyess AFB, TX - Article 86. You, did, on or about 4 May 05, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 7th Equipment Maintenance Squadron, Building 8130, Dyess AFB, Texas. Reduction to Airman. (No appeal) (No mitigation)

(2) 08 Apr 05, Dyess AFB, TX - Article 86. You, did, on or about 24 Mar 05, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Wing Conference Room, 466 5th Street, Dyess AFB, Texas. Article 92. You, who knew or should have known of your duties, on or about 24 Feb 05, were derelict in the performance of those duties in that you negligently failed to properly inspect toolbox EF-1N, as it was your duty to do. Suspended reduction to Airman. Thirty days extra duty. (Appeal/Granted) (No mitigation)

(3) 4 Feb 05, Dyess AFB, TX - Article 87. You did, at or near Camp Justice, Diego Garcia, British Indian Ocean

Territory, on or about 12 Jan 05, through neglect miss the movement of Flight Mission TRQJZF400011 with which you were required in the course of duty to move. Article 92. You, having knowledge of a lawful order issued by the Fortieth Air Expeditionary Maintenance Squadron Commander not to consume alcohol, an order which it was your duty to obey, did, at or near Camp Justice, Diego Garcia, British Indian Ocean Territory, on or about 11 Jan 05, fail to obey the same by wrongfully consuming alcohol. Article 107. You did, at or near Camp Justice, Diego Garcia, British Indian Ocean Territory, on or about 12 Jan 05, with intent to deceive, make to CMSgt [redacted] an official statement, to wit: that SSgt [redacted] was your wingman, which statement was totally false, and was then known by you to be so false. Reduction to A1C, 45 days restriction, and forty five days extra duty. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 21 JUL 04 - Late for duty on two occasions.

LOR, 01 JUL 04 - Late for duty.
 RIC, 24 JUN 04 - Late for duty.
 RIC, 31 MAR 04 - Late for duty.
 RIC, 16 JAN 04 - Dereliction of duty.
 RIC, 16 JUN 03 - Failure to go.

f. CM: None.

g. Record of SV: 7 Jan 00 - 6 Jan 01 Fairchild AFB 3 (Annual)
 7 Jan 01 - 6 Jan 02 Fairchild AFB 3 (Annual)
 7 Jan 02 - 7 Dec 02 Osan AB 3 (CRO)
 8 Dec 02 - 7 Dec 03 Dyess AFB 4 (Annual)
 8 Dec 03 - 7 Dec 04 Dyess AFB 3 (Annual)

h. Awards & Decs: AFTR, AFLSAR W/1 DEV, NCOPMER, NDSM, KDSM, GWOTSM, AFOUA W/1 DEV, AFGCM W/1 DEV, SAEMR, AFOSSTR.

i. Stmt of Sv: TMS: (08) Yrs (04) Mos (19) Das
 TAMS: (08) Yrs (01) Mos (17) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 22 Feb 06.
 (Change Discharge to Honorable)

Issue 1: I have completed the time needed for a review of upgrading my discharge status.

ATCH

None.

25MAY06/ia



DEPARTMENT OF THE AIR FORCE
7TH EQUIPMENT MAINTENANCE SQUADRON (ACC)
DYESS AIR FORCE BASE, TX

FD 2006-00083

24 May 05

MEMORANDUM FOR AMN: [REDACTED]

FROM: 7 EMS/CC

SUBJECT: Notification Memorandum – Board Hearing

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct – Discreditable Involvement With Military or Civil Authorities according to AFPD 36-32, Military Retirements and Separations, and AFI 36-3208, Administrative Separation of Airmen, under the provisions of paragraph 5.50.1. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. You did, on 16 Jun 03, without authority, fail to go to a scheduled Military Equal Opportunity newcomer's orientation, for which you were counseled, as evidenced by AF Form 174, dated 16 Jun 03.

b. You were, on 13 Jan 04, derelict in the performance of your duties in that you failed to perform the cleaning, repairing, and operational checks of your machines, for which you were counseled, as evidenced by AF Form 174, dated 16 Jan 04.

c. You did, on 31 Mar 04, without authority, report approximately 35 minutes late for duty, for which you were counseled, as evidenced by AF Form 174, dated 31 Mar 04.

d. You did, on 24 Jun 04, without authority, report late for physical fitness time, for which you were counseled, as evidenced by AF IMT 174, dated 24 Jun 04.

e. You did, on 1 Jul 04, without authority, report late for duty, for which you were reprimanded, as evidenced by LOR, dated 1 Jul 04.

f. You did, on 21 Jul 04, without authority, report 12 minutes late for duty. You did, on 22 Jul 04, without authority, report 15 minutes late for duty. For this misconduct you were reprimanded and an Unfavorable Information File was established, as evidenced by LOR, dated 21 Jul 04, and AF Form 1058, dated 9 Aug 04.

g. You did, on 11 Jan 05, at Camp Justice, Diego Garcia, British Indian Ocean Territory, fail to obey a lawful order in that you wrongfully consumed alcohol. You did, on 12 Jan 05, without authority, miss the movement of your flight mission. You did, on 12 Jan 05, with the

intent to deceive, make a false official statement to CMSgt: [redacted] You told CMSgt: [redacted] that SSgt: [redacted] was your wingman, a statement that was totally false. For this misconduct you received Article 15 punishment, as evidenced by AF Form 3070, dated 4 Feb 05.

h. You did, on 24 Mar 05, without authority, report late for duty. You were, on 14 Feb 05, derelict in the performance of your duties in that you failed to properly inspect toolbox EF-IN. For this misconduct you received Article 15 punishment, as evidenced by AF Form 3070, dated 8 Apr 05.

i. You did, on 4 May 05, without authority, report late for duty, for which your suspended reduction in rank was vacated, as evidenced by AF Form 366, dated 18 May 05.

3. This action could result in your separation with an Under Other Than Honorable Conditions discharge. I am recommending that you receive an Under Honorable Conditions (General) discharge. The commander exercising special court-martial jurisdiction or a higher authority will make the final decision in this matter. 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 and any special pay, bonus, or education assistance funds may be subjected to recoupment.


4. You have the right to :

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before deciding to waive any of your rights.

5. You have been scheduled for a medical examination. You must report to 7th Medical Group Hospital, 697 Hospital Rd, Dyess AFB, TX, at 3 Jun 05 at 1530 hours.

6. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Capt: [redacted] Area Defense Counsel, 397 3rd St, Bldg 7235, Dyess AFB, TX, DSN 461-4233, Commercial (325) 696-4233 at 0900 hours on 25 May 05. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.
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 the unit orderly room.
9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.
10. Execute the attached acknowledgment and return it to me immediately.


 Commander

Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum
3. AF Form 174, dated 16 Jun 03
4. AF Form 174, dated 16 Jan 04
5. AF Form 174, dated 31 Mar 04
6. AF IMT 174, dated 24 Jun 04
7. LOR, dated 1 Jul 04
8. LOR, dated 21 Jul 04
9. AF Form 3070, dated 4 Feb 05
10. AF Form 3070, dated 8 Apr 05 w/Response
and four attachments, Appeal of Nonjudicial Punishment, dated
12 Apr 05, and Recommendation for Denial of Appeal, dated 12 Apr 05
11. Sworn Statement from MSgt: [redacted], dated 24 Mar 05
12. Sworn Statement from TSgt: [redacted], dated 8 Mar 05
13. AF Form 366, dated 18 May 05
14. Sworn Statement from SSgt: [redacted]