

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) _____	GRADE A1C	AFSN/SSAN _____
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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
YES	No		
	X		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
_____	X+				*
_____	X				+*
_____	X+				*
_____	X+				*
_____	X+				*

ISSUES	A94.05	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 IIE

HEARING DATE	27 Feb 2007	CASE NUMBER	FD-2006-00216
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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 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.

+ REASON AND AUTHORITY
 * REENLISTMENT CODE

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INDORSEMENT		DATE: 2/28/2007
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-2006-00216

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 27 Feb 2007. No witnesses testified on the applicant's behalf.

The following additional exhibits were submitted at the hearing: Exhibit #5: One additional character reference letter. The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board partially grants the requested relief, as noted above. Upgrade of discharge and change of reason and authority for discharge are granted, but change of reenlistment code is denied. The discharge is upgraded to honorable. The reason and authority for the discharge is changed to unsatisfactory performance, AFI 36-3208, para. 5.26.1.1.

The Board finds that the evidence of record coupled with that provided by the applicant substantiate an inequity that would justify a change of discharge.

ISSUE:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated over a period of approximately five weeks in February/March 2006, the applicant received only one Record of Individual Counseling (not handing in homework), and two Letters of Reprimand (one for missing study hall and one for a safety violation on a trainer) in his overall 10-month period of Air Force service. The DRB opined that these administrative actions were not properly characterized as instances of misconduct, but rather, in the training environment, as unsatisfactory performance not atypical of conduct engaged in by many past trainees (who had not been separated for such minor acts). The record shows the applicant used each opportunity to change the negative behavior outlined in the documents. The Board concluded that using minor disciplinary infractions to constitute a misconduct discharge was inequitable. Additionally, the DRB's in-depth evaluation of the applicant's total Air Force service record was found to be most appropriately characterized as honorable.

Issue 2. Applicant contends his RE code should be changed to allow him to re-enlist in the military. The Applicant's record was thoroughly reviewed by the Board, but the Board found that the information therein did not justify a change to the RE code.

CONCLUSIONS: The Discharge Review Board concludes that the Applicant was not treated equitably by having these few incidents labeled as misconduct, when others in training status who were similarly situated in grade, rank, and time in service were also engaging in these incidents without being singled out for discharge for misconduct with an under honorable conditions (general) service characterization. In view of all of the foregoing findings, the Board further concludes that there exists equitable bases for upgrade of discharge, thus the applicant's discharge should be changed. The applicant's characterization and reason for discharge should be changed to an honorable conditions discharge for unsatisfactory performance, paragraph 5.26.1.1 under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

**DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD**

(Former A1C) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF Sheppard AFB, TX on 4 May 06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change RE Code and Reason for Discharge.

2. BACKGROUND:

a. DOB: 30 Aug 84. Enlmt Age: 20 6/12. Disch Age: 21 8/12. Educ: HS DIPL. AFQT: N/A. A-88, E-94, G-94, M-94. PAFSC: 2A513B - Integrated Avionics Systems Helper. DAS: 2 Sep 05.

b. Prior Sv: (1) AFRes 23 Mar 05 - 4 Jul 05 (3 months 12 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 5 Jul 05 for 6 yrs. Svd: 00 Yrs 10 Mo 00 Das, all AMS.

b. Grade Status: A1C - 19 Aug 05

c. Time Lost: None.

d. Art 15's: None.

e. Additional: AETC 125A, 5 APR 05 - Removed from training.
 RIC, 14 FEB 06 - Failure to obey a direct order.
 LOR, 16 MAR 06 - Failure to go and late for duty.
 LOR, 23 MAR 06 - Direct Safety Violation (DSV).

f. CM: None.

g. Record of SV: None.

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

i. Stmt of Sv: TMS: (01) Yrs (01) Mos (12) Das
 TAMS: (00) Yrs (10) Mos (00) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 30 May 06.

(Change Discharge to Honorable, and Change the RE Code and Reason for Discharge.)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Copy of Discharge Certificates.
4. Two Training Certificates.
5. 365 TRS Accountability Roster.
6. 365 TRS/TTCA, Email, Student Leaders of Awards Banquet.

11JUL06/ia

JUL 07 2006

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one)	<input type="checkbox"/> ARMY	<input type="checkbox"/> MARINE CORPS	<input type="checkbox"/> NAVY	<input checked="" type="checkbox"/> AIR FORCE	<input type="checkbox"/> COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER		
	E-3/A1C				
2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)		5. BOARD ACTION REQUESTED (X one)		
20060504	<input type="checkbox"/> HONORABLE		<input checked="" type="checkbox"/> CHANGE TO HONORABLE		
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS		<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS		
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS		<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)		
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)		<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:		
365th MTF/TRS, Sheppard AFB, TX	<input type="checkbox"/> UNCHARACTERIZED				
	<input type="checkbox"/> OTHER (Explain)				

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

Given my character statements, accomplishments, and service, the offences listed are not grievous enough to warrant General Discharge status and ineligibility to reenlist in the Air National Guard. I request that my separation be characterized as honorable, my reason for separation be categorized as voluntary, and my reenlistment code be changed to 1A or the appropriate reenlistment code that will allow me to reenlist in the Air National Guard.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD)

AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17.)

(If military documents or medical records are relevant to your case, please send copies.)

Discharge notification package, Discharge response package, DD Form 214, Letter to the Board

9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/>	CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
<input type="checkbox"/>	I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.
<input type="checkbox"/>	I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS

(See item 10 of the instructions about counsel/representative.)

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE

(Forward notification of any change in address.)

.....

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

CASE NUMBER
(Do not write in this space.)

a. SIGNATURE - REQUIRED (Applicant or person in item 11 above)

.....

b. DATE SIGNED - REQUIRED (YYYYMMDD)

20060705

30 May 2006

MEMORANDUM FOR THE BOARD OF CORRECTION OF AIR FORCE RECORDS

FROM: [REDACTED]

SUBJECT: Reenlistment Code Waiver

1. I, [REDACTED], submit this letter to the Board of Correction of Air Force Records in adjunct to all other supporting documents.
2. On the attached DD Form 214, page 4, box 27, the reentry code (a.k.a. reenlistment code) listed is 2B. This code, although not for any specific offence, prevents my reenlistment in the Air National Guard.
3. I wish this reentry code to be waived to code 1A so that I may reenlist and serve my country.
4. Although I do disagree with the Discharge Notification package's supporting documents, the basic content of the Discharge Notification is correct. I am not attempting to give justification for my actions. I, as before, only want to serve my country and I do not believe that the minor offences I committed are sufficient to prevent me from doing so.
5. I appreciate your time in looking at my case. I hope and pray you make the best decision in this case for all involved.

Respectfully submitted,

[REDACTED]



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

APR 20 2006

MEMORANDUM FOR (A1C: [REDACTED]) 365 TRS

FROM: 365 TRS/CCQ

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 AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 21 Mar 06, were derelict in the performance of those duties in that you failed to refrain from committing a direct safety violation by disconnecting a cannon plug with power applied to the trainer, as it was your duty to do. For this misconduct, you received a Letter of Reprimand (LOR) on 26 Mar 06.

b. You did, at or near Sheppard AFB TX, on or between on or about 15 Mar 06 and on or about 16 Mar 06, on divers occasions, fail to go at the time prescribed to your appointed place of duty, to wit: mandatory study in Building 1020, Room C139, at 0600 hours. For this misconduct, you received an LOR on 16 Mar 06.

c. You, having knowledge of a lawful order, issued by SSgt: [REDACTED], to wit: an order which it was your duty to obey, did, at or near Sheppard AFB TX, between on or about 10 Feb 06 and on or about 13 Feb 06, on divers occasions, fail to obey the same by willfully failing to complete three study questions per page from your study guide. For this misconduct, you received an AF Form 174, Record of Individual Counseling, on 14 Feb 06.

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 06 at 0945 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, 25 Apr 06 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 0900 on 7 Apr 06.

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 Commander's Support Staff.

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


Section Commander

Attachments:

1. LOR, 23 Mar 06
2. Response to LOR, 11 Apr 06
3. Letter of Rebuttal, 28 Mar 06
4. Response to Rebuttal, 29 Mar 06
5. LOR, 16 Mar 06
6. Memo, Mandatory Study, 8 Mar 06
7. AF Form 174, 14 Feb 06
8. AF Reading Abilities Test, 6 Feb 06
9. AETC Form 125A, 5 Apr 06
10. Student Training Report, 06003
11. Lackland Form 205, 22 Aug 05
12. Airman's Receipt to Notification Memorandum *wd*



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

28 Apr 06

MEMORANDUM FOR 782 TRG/CC

FROM: 82 TRW/JA

SUBJECT: Legal Review, Recommendation for Discharge – A1C [REDACTED], 365 TRS

1. We have reviewed this discharge case file and find it legally sufficient. We concur with the recommendation of the 365 TRS/CCQ that A1C [REDACTED], the respondent, should be discharged from the Air Force under honorable conditions (general) in accordance with AFI 36-3208, paragraph 5.49 (minor disciplinary infractions), without probation and rehabilitation (P&R).

2. Basis for Action: On 20 Apr 06, the 365 TRS/CCQ notified A1C [REDACTED] that he was recommending the respondent be discharged from the Air Force due to his misconduct. The preponderance of the evidence in the case file supports the squadron section commander's recommendation.

3. Reasons for Discharge:

a. On 21 Mar 06, the respondent committed a direct safety violation by disconnecting a cannon plug with power applied to the trainer. For this misconduct, he received a Letter of Reprimand (LOR) on 23 Mar 06.

b. Between 15 Mar 06 and 16 Mar 06, on divers occasions, the respondent failed to report to mandatory study. For this misconduct, he received an LOR on 16 Mar 06.

c. Between 10 Feb 06 and 13 Feb 06, on divers occasions, the respondent disobeyed lawful orders from a noncommissioned officer (NCO). For this misconduct, he received an AF Form 174, Record of Individual Counseling, on 14 Feb 06.

4. Additional Information:

a. The respondent is 21 years old, began his present enlistment on 5 Jul 05, and was assigned to his unit on 2 Sep 05. His ASVAB scores are as follows: A – 88, E – 94, G – 94 and M – 94. The respondent is entitled to wear the National Defense Service Medal, Global War on Terrorism Service Medal and Air Force Training Ribbon.

b. The respondent consulted counsel and submitted statements for your consideration. In his personal statement, the respondent requests to stay in the Air Force and be reclassified into another career field. He also submitted three character statements on his behalf.

c. We note that there are two responses to the LOR dated 23 Mar 06. This LOR was reissued on 11 Apr 06 because it initially was presented to the member by a person not authorized to do so under the policy letter on AETCI 36-2216 dated 26 Sep 05. Both responses are now included in the discharge package. The reissuance of the LOR does not affect the legal sufficiency of this discharge package.

5. Options: In accordance with AFI 36-3208, your options are to:

a. Direct A1C [redacted] retention;

b. Suspend an under honorable conditions (general) discharge and grant P&R;

c. Direct an under honorable conditions (general) discharge without P&R; or

d. Recommend an honorable discharge. If you determine an honorable discharge is appropriate, this file must be forwarded to 2 AF CC because only a General Court-Martial Convening Authority may approve an honorable discharge when the basis for discharge is misconduct (AFI 36-3208, paragraph 5.48.4).

6. Recommendation: Direct an under honorable conditions (general) discharge without P&R.

7. If you have any questions regarding this matter, please contact me at 6-2312, or Capt [redacted] at 6-2442.

[redacted]

Staff Judge Advocate

Attachment:
Case File