

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AMN

TYPE GEN

PERSONAL APPEARANCE

X

RECORD REVIEW

COUNSEL

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES

No

X

VOTE OF THE BOARD

MEMBER SITTING

HON

GEN

UOTHC

OTHER

DENY

X*

X*

X*

X*

X*

ISSUES

A92.21

A94.05

INDEX NUMBER

A67.90

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 HE

HEARING DATE

13 Mar 2007

CASE NUMBER

FD-2006-00222

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.

* Reason and Authority

ENDORSEMENT

DATE: 3/20/2007

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-2006-00222

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

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 and change of reason and authority for discharge are 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. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, seven Letters of Reprimand, four Letters of Counseling, and two Records of Individual Counseling for misconduct. The applicant's first Article 15 was for failure to go at the time prescribed to his appointed place of duty and for failing to maintain his kitchen within standards. He was punished with a suspended reduction to Airman, suspended forfeiture of pay for two months and seven days of extra duty. His second Article 15 was for unlawfully pushing and grabbing another airman with his hands and for failing to refrain from drinking alcoholic beverages while under the age of 21. He was reduced in grade to Airman, restricted to base for 30 days and a reprimand. He had numerous infractions and was administratively disciplined for violating a no-contact order, wearing earrings, lying to an NCO, being late for appointments, failed room inspection, failure to go, failure to meet minimum standards for upgrade training, failure to perform duty, being late for class/work and wearing earrings in uniform. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the applicant's 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. The DRB was pleased to see that the applicant is doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 3. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. 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.

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

[REDACTED] (Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Malmstrom AFB, MT on 20 Jun 01 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for an Honorable and Change the Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 10 Jun 80. Enlmt Age: 17 6/12. Disch Age: 21 0/12. Educ: HS DIPL. AFQT: N/A. A-35, E-67, G-50, M-26. PAFSC: 3M051 - Services Journeyman. DAS: 29 Apr 98.

b. Prior Sv: (1) AFRes 30 Dec 97 - 14 Jan 98 (15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 15 Jan 98 for 4 yrs. Svd: 03 Yrs 05 Mo 06 Das, all AMS.

b. Grade Status: Amn - 16 Apr 01 (Article 15, 16 Apr 01)
A1C - 15 May 99
Amn - 15 Jul 98

c. Time Lost: None.

d. Art 15's: (1) 16 Apr 01, Malmstrom AFB, MT - Article 128. You did, on or about 15 Feb 01, unlawfully pushed and grab A1C [REDACTED] with your hands. Article 92. You, who knew of your duties, on or about 15 Feb 01, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of 21 years, as it was your duty to do. Reduction to Airman, restriction to Malmstrom AFB, Montana for 30 days, and a reprimand. (Appeal/Denied) (No mitigation)

(2) 7 Jun 00, Malmstrom AFB, MT - Article 86. You, did, on or about 5 May 00, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 1145. Article 92. Further, you who knew of your duties, on or about 10 May 00, were derelict in the performance of these duties in that you willfully failed to maintain your kitchen within standards, as it was your duty to do. Suspended reduction to Airman. Suspended forfeiture of \$281.00 pay per month for 2 months. Seven days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR/UIF, 16 APR 01 - Violated no contact order.
 LOR/UIF, 05 FEB 01 - Wearing earrings and lying to an NCO
 and late for movement.
 DD 1408, 14 NOV 00 - Illegal parking.
 CR, 10 APR 00 - Continuous disciplinary infractions.
 LOR/UIF, 30 MAR 00 - Late for appointment.
 LOC/UIF, 06 MAR 00 - Failed room inspection.
 MFR, 20 FEB 00 - Revocation of driving privileges.
 LOR, 13 FEB 00 - Failure to go.
 DD 1408, 18 DEC 99 - Inattentive driving and speeding.
 LOR/UIF, 01 DEC 99 - Late for duty twice and returning from
 lunch late.
 LOR/UIF, 02 NOV 99 - Failure to go.
 LOC, 19 JUL 99 - Failure to meet minimum standards for
 upgrade training.
 LOC, 18 FEB 99 - Failed end of course test and failure to
 meet minimum training standards.
 RIC, 05 FEB 99 - Failure to perform duty.
 RIC, 04 FEB 99 - Late for work.
 LOR, 25 AUG 98 - Late for class.
 LOC, 17 AUG 98 - Wearing earrings in uniform.
- f. CM: None.
- g. Record of SV: 15 Jan 98 - 14 Sep 99 Malmstrom AFB 3 (Initial)
 15 Sep 99 - 14 Sep 00 Malmstrom AFB 3 (Annual)REF
- h. Awards & Decs: AFTR, AFOUA.
- i. Stmt of Sv: TMS: (03) Yrs (05) Mos (21) Das
 TAMS: (03) Yrs (05) Mos (06) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 05 Jun 06.
 (Change Discharge to Honorable, and Change the Reason for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. DD Form 149.
4. Copy of Military ID Card.
5. Response to Notification of Discharge.
6. Administrative Discharge Action.
7. Response to Nonjudicial Punishment Proceedings.
8. Personal Statement.
9. Appeal to Nonjudicial Punishment.
10. Article 15, 16 Apr 01.

17JUL06/ia

JUN 19 2006

FD2006-00222

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) ☐ ARMY ☐ MARINE CORPS ☐ NAVY ☒ AIR FORCE ☐ COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE E-2 d. SOCIAL SECURITY NUMBER

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)

☐ HONORABLE ☒ CHANGE TO HONORABLE

☒ GENERAL/UNDER HONORABLE CONDITIONS ☐ CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS

☐ UNDER OTHER THAN HONORABLE CONDITIONS ☐ CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)

☐ BAD CONDUCT (Special court-martial only) ☐ CHANGE NARRATIVE REASON FOR SEPARATION TO:

☐ UNCHARACTERIZED

☐ OTHER (Explain)

5. BOARD ACTION REQUESTED (X one)

☒ CHANGE TO HONORABLE

☐ CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS

☐ CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)

☐ CHANGE NARRATIVE REASON FOR SEPARATION TO:

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

My discharge from Active Duty was improper because it was based on false accusation. I'm currently enlisted with the Army National Guard, and I'll like to pursue my education with my G.I. Bill when was paid for while Active. I was Active for 3 years & 6 months.

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.)

My DD 214 and memorandums submitted during my discharge proceeding are ~~now~~ submitted as evidence.

9. TYPE OF REVIEW REQUESTED (X one)

☒ 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.

☐ 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.

☐ 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.)

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

b. DATE SIGNED - REQUIRED (YYYYMMDD)

20060614

CASE NUMBER (Do not write in this space.)

FD2006-00222

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

I'll like to upgrade my general discharge from the Air Force to an Honorable one so I can obtain my G.I. Bill and build a better future for myself.

I have a dependent (my son) and his mother to support.

I am currently with the Army National Guard -

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593



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

FD 2006-00222

30 May 01

MEMORANDUM FOR 341 SVS (AMN: [REDACTED])

FROM: 341 SVS/CC

SUBJECT: Notification Memorandum

1. Pursuant to AFD 36-32 and AFI 36-3208, paragraph 5.50.2, I am recommending your discharge from the United States Air Force for conduct prejudicial to good order and discipline. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending a general discharge.

2. My reasons for this action are:

a. On or about 8 Aug 98, you violated standards of dress and appearance by wearing an earring while on duty and in uniform. For this misconduct, you received a Letter of Counseling (LOC) dated 17 Aug 98.

b. On or about 24 Aug 98, you disobeyed a direct order from your supervisor in that you were ordered to report to his office at 0730. In addition, you failed to go to chemical warfare class. For this misconduct, you received a Letter of Reprimand (LOR) dated 25 Aug 98.

c. On 4 Feb 99, you were late for work. For this misconduct, you received an LOC dated 4 Feb 99.

d. On 5 Feb 99, you failed to perform your duties in that you failed to provide proper information at changeover. For this misconduct, you received an LOC dated 5 Feb 99.

e. On or about 5 Feb 99, you failed to comply with set study guidelines in that you failed your CDC end of course test. Further, on 18 Feb 99, you failed a no-notice kitchen inspection conducted at Romeo MAF. For this misconduct, you received an LOC dated 18 Feb 99.

f. On 15 Jul 99, you again failed to comply with set study guidelines and have failed to meet minimum upgrade training standards. Further, on 15 Jul 99, your hair was not in compliance with dress and appearance standards. For this misconduct, received an LOC dated 19 Jul 99.

g. On 19 Oct 99, you failed to go to a mandatory interspiro class. Further, on 2 Nov 99, you missed a mandatory OJT meeting with your supervisor. For this misconduct, you received an LOR dated 2 Nov 99, and an Unfavorable Information File was established.

h. On 22 Nov 99, you failed to report for duty on time, to wit: 0800 hours. You reported 45 minutes late. In addition, on or about 23 Nov 99, you failed to report for duty on time, to wit: 0800 hours. You reported 20 minutes late. Further, you failed to report for duty after the lunch hour on time, to wit: 1300 hours. For this misconduct, you received an LOC dated 1 Dec 99, which was placed in your UIF.

i. On 18 Dec 99, you were inattentive while driving and were exceeding the posted speed limit in the parking lot of building 655. For this misconduct, you received an Armed Forces Traffic Ticket dated 18 Dec 99.

j. On 5 Feb 00, you failed to report for duty on time, to wit: 0800 hours. In addition, you were also scheduled as the standby person for posting, and failed to report for duty. For this misconduct, you received an LOR dated 13 Feb 00.

k. On or between 1 Dec 99 and 20 Feb 00, you were involved in two vehicle accidents. For this misconduct, your POV driving privileges were suspended on Malmstrom AFB due to your inattentive driving on 20 Feb 00.

l. On 6 Mar 00, you were derelict in your duties in that you failed to maintain minimum standards of cleanliness in your dormitory room. For this misconduct, you received an LOC dated 6 Mar 00, which was placed in your UIF.

m. On 30 Mar 00, you failed to report for a mandatory appointment on time, to wit: 0700 hours. You reported 8 minutes late. In addition, on 28 Mar 00, you disobeyed a direct order to get a haircut, by failing to comply with that order. For this misconduct, you received an LOR dated 30 Mar 00, which was placed in your UIF, and you were placed on the Control Roster.

n. On or about 5 May 00, you failed to go at the time prescribed to your appointed place of duty, to wit: Building 1145. Further, on or about 10 May 00, you were derelict in your duties in that you willfully failed to maintain your kitchen within standards, as it was your duty to do. For this misconduct, you received an Article 15 dated 7 Jun 00, which was placed in your UIF.

o. On 14 Nov 00, you failed to follow traffic laws by parking adjacent to a fire hydrant. For this misconduct, you received an Armed Forces Traffic Ticket dated 14 Nov 00.

p. On 2 Feb 01, you lied to a senior noncommissioned officer on two instances, to wit: if you were active duty and what squadron you were assigned. In addition, on 3 Feb 01, you failed to report for your flight to Tyndall AFB on time, and the plane had to be held for you. For this misconduct, you received an LOR dated 5 Feb 01, which was placed in your UIF.

q. On or about 15 Feb 01, the 341 SVS/CC was notified of an on-going investigation regarding an alleged assault between yourself and another military member. For this misconduct, you were given a No Contact Order, dated 15 Feb 01, which was renewed on 28 Feb 01 and 28 Mar 01.

r. On or about 15 Feb 01, you unlawfully pushed and grabbed A1C [redacted] with your hands. In addition, on or about 15 Feb 01, you were derelict in your duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of 21 years, as it was your duty to do. For this misconduct, you received an Article 15 and a Reprimand dated 16 Apr 01, which was placed in your UIF.

s. On or about 4 Mar 01, you violated the No Contact Order by telephoning A1C: [redacted]. For this misconduct, you received an LOR dated 16 Apr 01, which was placed in your UIF.

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 a higher authority will decide whether you will be discharged or retained in the Air Force. 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 31 May 01 at 1000. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. You have 3 duty days from the date of this letter (COB 4 Jun 01), to provide me with any statements you want the separation authority to consider. You may request and receive an extension for good cause shown. I will send all submitted statements 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 must receive a medical examination. You are scheduled for a medical examination at the 341st Medical Group Physical Examination Section, x4453, on ~~430~~ 31 May 01 at 1300 hours. 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 provide 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.

[redacted]
Commander

Attachments:

1. Supporting documents:

- a. LOC dated 17 Aug 98
- b. LOR dated 25 Aug 98
- c. LOC dated 4 Feb 99
- d. LOC dated 5 Feb 99
- e. LOC dated 18 Feb 99
- f. LOC dated 19 Jul 99
- g. LOR dated 2 Nov 99 w/ UIF Action
- h. LOR dated 1 Dec 99 w/ UIF Action
- i. Armed Force Traffic Ticket dated 18 Dec 99
- j. LOR dated 13 Feb 00
- k. Revocation/Suspension of Driving Privileges dated 20 Feb 00
- l. LOC dated 6 Mar 00 w/ UIF Action
- m. LOR dated 30 Mar 01 w/ UIF and Control Roster Actions
- n. Art 15 dated 7 Jun 00
- o. Armed Force Traffic Ticket dated 14 Nov 00
- p. LOR dated 5 Feb 01 w/ UIF Action
- q. No Contact Orders dated 15 Feb 01, 28 Feb 01 and 28 Mar 01
- r. Art 15 dated 16 Apr 01 w/ UIF Action
- s. LOR dated 16 Apr 01 w/ UIF Action
- t. Documents in Atch 6

2. Airman's Receipt of Notification Memorandum