

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 A1C	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION YES No <div style="text-align: center; margin-left: 40px;">X</div>		ADDRESS AND OR ORGANIZATION OF COUNSEL	

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

ISSUES A94.05	INDEX NUMBER A67.90	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="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> </tbody> </table>	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
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HEARING DATE 22 Feb 2007	CASE NUMBER FD-2006-00237	
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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, 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.

INDORSEMENT TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	DATE: 2/22/2007 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

FD-2006-00237

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: The Applicant states that his discharge did not take into account the fact that he has a sleeping disorder. The medical records indicated that the applicant participated in a civilian sleep study. The sleep study concluded that the applicant had no significant degree of obstructive sleep apnea. The records indicated the applicant received two Article 15s and three Letters of Reprimand for misconduct. The misconduct included late for work on numerous occasions, arrested and charged with Driving Under the Influence, speeding, and failure to go. 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.

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 A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Pope AFB, NC on 23 Dec 03 UP AFI 36-3208, para 5.50.2 (Patten of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 26 May 80. Enlmt Age: 19 0/12. Disch Age: 23 6/12. Educ: HS DIPL. AFQT: N/A. A-68, E-86, G-82, M-83. PAFSC: 2A652 - Aerospace Ground Equipment Journeyman. DAS: 17 Feb 00.

b. Prior Sv: (1) AFRes 10 Jun 99 - 29 Jun 99 (20 days) (Inactive).

(2) Enlisted AF as AB 30 Jun 99 for 4 years. Svd: 3 Yrs 9 Mo 4 Das, all AMS. Amn - 30 Dec 99. A1C - 30 Oct 00. SrA - 30 Jun 02. EPRs: 4,4,3.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 4 Apr 03 for 4 years. Svd: 00 Yrs 08 Mo 20 Das, all AMS.

b. Grade Status: A1C - 07 Jul 03 (Vacation of Suspension, 3 Nov 03)

c. Time Lost: None.

d. Art 15's: (1) 3 Nov 03, Vacation, Pope AFB, NC - Article 92. You, who knew or should have known of your duties within the state of North Carolina, on or about 19 Oct 03, were derelict in the performance of those duties in that you operated a motor vehicle under the influence of alcohol, in violation of North Carolina General Statute 20-138.1. You, who knew or should have known of your duties with the state of North Carolina, on or about 19 Oct 03, were derelict in the performance of those duties in that you willfully failed to obey the posted speed limit of forty-five miles per hour, as it was your duty to do, in violation of North Carolina General Statute 20-141. Reduction to A1C. (No appeal) (No mitigation)

(2) 7 Jul 03, Pope AFB, NC - Article 86. You, did, on or about 17 Jun 03, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 759. You, did, on or about 19 Jul 03, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 759.

Suspended Reduction to A1C. Forty-five days extra duty.
(No appeal) (No mitigation)

- e. Additional: LOR, 3 NOV 03 - Arrested and charge with DUI and speeding.
LOR, 11 APR 03 - Sixth time late for work.
LOR, 08 APR 03 - Fifth time late for work.
- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR, NDSM, AFLSA, AFOUA.
- i. Stmt of Sv: TMS: (04) Yrs (06) Mos (14) Das
TAMS: (04) Yrs (05) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 19 Jun 06.
(Change Discharge to Honorable.)

Issue 1: That a sleeping disorder was responsible for my failure to show in a timely manner which led to an article fifteen and a misconduct discharge. My squadron commander did not take into account due to my comments concerning my alarm clocks before I sought medical help.

ATCH

1. Rebuttal letter to administrative discharge action.
2. Letter of recommendation.
3. Five letters concerning Medical treatment.

21JUL06/day



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE NORTH CAROLINA

10 OAC 07

MEMORANDUM FOR A1C [REDACTED], 43 MXS

FROM: 43 MXS/CC
286 Fortress Street
Pope AFB, NC 28308

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct, specifically, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. The most severe type of discharge authorized in this case is an Under Other Than Honorable Conditions (UOTHC) discharge, if the convening authority determines such characterization is warranted and directs initiation of a discharge board. I am recommending that you be discharged with an Under Honorable Conditions (General) service characterization.

2. My reasons for this action are:

a. On or about 19 Oct 03, you were derelict in the performance of those duties in that you operated a motor vehicle under the influence of alcohol, in violation of North Carolina General Statute 20-138.1, as documented by an AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 3 Nov 03; Letter of Reprimand (LOR), dated 3 Nov 03; Intake Report, dated 19 Oct 03; Intoxilyzer Report, dated 19 Oct 03; Affidavit and Revocation Report of Chemical Analyst, dated 19 Oct 03; Affidavit and Revocation Report of Charging Officer, dated 19 Oct 03; North Carolina Uniform Citation, dated 19 Oct 03 (2 pgs); and Arrest Report, dated 19 Oct 03.

b. On or about 19 Oct 03, you were derelict in the performance of those duties in that you willfully failed to obey the posted speed limit traveling 81 miles per hour in a 45 mile per hour zone, as it was your duty to do, in violation of North Carolina General Statute 20-141, as documented by an AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 3 Nov 03; Letter of Reprimand, dated 3 Nov 03; Letter of Reprimand (LOR), dated 3 Nov 03; Intake Report, dated 19 Oct 03; Intoxilyzer Report, dated 19 Oct 03; Affidavit and Revocation Report of Chemical Analyst, dated 19 Oct 03; Affidavit and Revocation Report of Charging Officer, dated 19 Oct 03; North Carolina Uniform Citation, dated 19 Oct 03 (2 pgs); and Arrest Report, dated 19 Oct 03.

c. On or about 17 Jun 03, you, without authority, failed to go at the time prescribed to your appointed place of duty, to wit: Building 759, as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 7 Jul 03.

d. On or about 19 Jun 03, you, without authority, failed to go at the time prescribed to your appointed place of duty, to wit: Building 759, as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 7 Jul 03.

e. On or about 7 Apr 03, you reported approximately 5 minutes late to work, as documented by a Letter of Reprimand (LOR), dated 11 Apr 03.

f. On or about 1 Apr 03, you reported late to work, as documented by a Letter of Reprimand (LOR), dated 8 Apr 03.

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 may be obtained to assist you. Contact SSgt: [REDACTED] (extension 4-2362) at the Area Defense Counsel's office, at that time an appointment will be scheduled for you to consult the Area Defense Counsel.** You may consult civilian counsel at your own expense. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

5. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me by 1130 at 15 DEC 03 unless you request and receive an extension for good cause shown. Any submitted statements will be forwarded to the Separation Authority.

6. If you fail to consult counsel or to submit statements in your behalf in **three days**, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a physical examination with Dr Horn. Report to the Pope AFB Family Practice Clinic on 15 Dec 03 at 1020 hours. In addition, report to the Lab ASAP to receive HIV screening.

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 at the orderly room.



Commander

Attachments:

1. AF Form 366, dated 3 Nov 03 (2 pgs)
2. LOR, dated 3 Nov 03
3. Intake Report, dated 19 Oct 03
4. Intoxilyzer Report, dated 19 Oct 03
5. Affidavit and Revocation Report of Chemical Analyst, dated 19 Oct 03
6. Affidavit and Revocation Report of Charging Officer, dated 19 Oct 03
7. North Carolina Uniform Citation, dated 19 Oct 03 (2 pgs)
8. Arrest Report, dated 19 Oct 03
9. AF Form 3070, dated 7 Jul 03 (3 pgs)
10. Written Presentation, dated 30 Jun 03
11. Off Base Budget Proposal, dated 30 Jun 03 (2 pgs)
12. LOR, dated 11 Apr 03 with Response
13. LOR, dated 8 Apr 03