

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; width: 150px; height: 20px; margin-top: 5px;"></div>		GRADE AB	AFSN/SSAN <div style="border: 1px dashed black; width: 100px; height: 20px; margin-top: 5px;"></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 <div style="border: 1px dashed black; width: 150px; height: 100px; margin-top: 5px;"></div>		VOTE OF THE BOARD	
		HON	GEN
		UOTHC	OTHER
		DENY	
			X
			X
			X
			X
			X
ISSUES A95.00 A01.00	INDEX NUMBER A66.00	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 30 Jan 2007	CASE NUMBER FD-2006-00261		
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE			
<p>Case heard in Washington, D.C.</p> <p>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</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p> <div style="border: 1px dashed black; width: 600px; height: 40px; margin-top: 20px;"></div>			
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

FD-2006-00261

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.

ISSUES: Applicant received a General discharge for Misconduct--Drug Abuse

Issue 1: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire records and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant had received an Article 15 for wrongfully using Percocet, a Schedule II controlled substance. She was punished with a reduction in grade to Airman Basic, forfeiture of pay, restriction to Davis-Monthan for 14 days, 14 days extra duty and a reprimand. In addition, the applicant received two Letters of Counseling, three Letters of Reprimand and placed on the Control Roster. Her misconduct included late for duty, lying to and being disrespectful to a Noncommissioned Officer, and a failure to go. The Board opined that through these administrative actions, the applicant had ample opportunities to change her 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.

Issue 2: The applicant cited her desire to receive the G.I. Bill benefits as justification for upgrade. The Board noted that when the applicant applied for these benefits, she signed a statement (DD Form 2366, on 24 July 2003) with the understanding that she must receive an Honorable discharge to receive future educational entitlements. 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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Davis-Monthan AFB, AZ on 27 Jun 05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 31 Aug 85. Enlmt Age: 17 4/12. Disch Age: 19 9/12. Educ: HS DIPL. AFQT: N/A. A-65, E-53, G-59, M-47. PAFSC: 3P031 - Security Forces Apprentice. DAS: 17 Dec 03.

b. Prior Sv: (1) AFRes 9 Jan 03 - 21 Jul 03 (6 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 22 Jul 03 for 6 yrs. Svd: 01 Yrs 11 Mo 07 Das, all AMS.

b. Grade Status: AB - 16 May 05 (Article 15, 16 May 05)
A1C - 05 Sep 03

c. Time Lost: None.

d. Art 15's: (1) 16 May 05, Davis-Monthan AFB, AZ - Article 112a. You did, at or near Tucson, Arizona, between on or about 15 Feb 05 and on or about 19 Mar 05, on divers occasions, wrongfully use Percocet, a schedule II controlled substance. Reduction to AB, forfeiture of \$571.00 pay. Restriction to the limits of Davis-Monthan AFB, Arizona for 14 days, 14 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: CR, 07 MAR 05 - Pattern of misconduct.
LOR/UIF, 07 MAR 05 - Failure to go and ticket for speeding off base.
LOR, 06 JAN 05 - Lying to and disrespect to an NCO.
LOR, 21 NOV 04 - Late for duty.
LOC, 21 NOV 04 - Late for duty.
LOC, 21 NOV 04 - Late for duty.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFESR W/GB, GWOTEM, GWOTSM, AFOUA, AFTR, NDSM.

i. Stmt of Sv: TMS: (02) Yrs (05) Mos (19) Das

TAMS: (01) Yrs (11) Mos (07) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Jun 06.
(Change Discharge to Honorable)

Issue 1: Would like to upgrade to obtain GI Bill. Currently working on Associates degree in need of GI Bill to obtain Bachelor's degree.

ATCH
None.

15AUG06/ia



DEPARTMENT OF THE AIR FORCE
355TH SECURITY FORCES SQUADRON (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

17 JUNE 05

MEMORANDUM FOR AB: _____

FROM: 355 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Drug Abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge.
2. My reasons for this action are that on divers occasions, between on or about 15 Feb 05 and on or about 19 Mar 05, you wrongfully used Percocet, a Schedule II controlled substance. As a result, you received punishment under Article 15, UCMJ, on 16 May 05, consisting of a reduction to the grade of Airman Basic, forfeiture of \$571.00 pay, restriction to the limits of Davis-Monthan Air Force Base, Arizona for 14 days, 14 days extra duty, and a reprimand (Tab A).
3. In recommending your discharge, I am also considering the following information (Tab 6):
 - a. On 17 Nov 04, you missed a mandatory weapons firing appointment and on 20 Nov 04 and 21 Nov 04, you were late for a scheduled duty as a member of the Alpha Flight. As a result of these actions, you received two Letters of Counseling (LOC) and one Letter of Reprimand (LOR) on 21 Nov 04 (Tab B).
 - b. On 6 Jan 05, you were disrespectful towards a Noncommissioned Officer and lied when asked about your planned leave dates. As a result, you received an LOR on 6 Jan 05 (Tab C).
 - c. On 24 Feb 05, you failed to report for you Physical Health Assessment appointment. As a result, you received an LOR on 7 Mar 05. This LOR established an Unfavorable Information File (UIF) and you were placed on the control roster on 11 Mar 05 (Tab D).
4. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or higher authority will decide whether you will be discharged or retained in the United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

FT 2006-00101

5. 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 Captain: _____ at AFLSA/ADC, 228-5664, on 8 JUNE 05, at 0900 hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 10 JUNE 05 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You have been scheduled for a medical examination. You must report to your panel (_____), 355th Medical Group on 8 JUNE 05, at 0920 hours for the examination.

9. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, building 2300, room 116, at 1500 hours on 7 Jun 05 for the outprocessing briefing. If you have questions, please call 228-5326.

10. 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 Area Defense Counsel's office.

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

Commander

2 Attachments:

1. Supporting Documents

- a. AF Form 3070, Record of Nonjudicial Punishment, 16 May 05 (3 pgs) and Member's Response 11 May 05 (4 pgs)
- b. LOC, 21 Nov 05 (1 pg) x 2 and LOR, 21 Nov 05 (1 pg)
- c. LOR, 6 Jan 05 (1 pg)
- d. LOR, 7 Mar 05 (2 pgs) and UIF, 11 Mar 05 (2 pgs)

2. Receipt of Notification Memorandum