

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []	GRADE AMN	AFSN/SSAN []
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NAME OF COUNSEL AND OR ORGANIZATION		
	No		
	X		

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

ISSUES A95.00 A92.21 A01.00	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 HE	

HEARING DATE 22 Feb 2007	CASE NUMBER FD-2006-00264	
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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.

X - Upgrade Discharge, change of RE Code, and Reason and Authority

INDORSEMENT		DATE: 3/5/2007
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-2006-00264

GENERAL: The applicant appeals for upgrade of discharge to Honorable, to change the reenlistment code and to change the reason and authority.

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, change of reenlistment code, and to change the reason and authority 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:

The applicant did not submit any issues but did submit that since his discharge he has attended community college and maintained a position working at Newport News Shipbuilders. The Board reviewed the records; however, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The record indicates that the applicant received four Records of Individual Counseling; a Letter of Counseling; three Letters of Reprimand and an Article 15 for misconduct. The misconduct included being late for duty (five times), failure to meet military standards (unshaven twice), failure to obey a lawful order, leaving his line badge unattended, speeding on base (twice) and an Article 128 for Assault. The Board concluded the characterization of the discharge 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Langley AFB, VA on 12 Dec 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and Change the RE Code, Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 28 Jul 80. Enlmt Age: 21 0/12. Disch Age: 23 4/12. Educ: HS DIPL. AFQT: N/A. A-86, E-67, G-42, M-39. PAFSC: 2A331A - Avionics Systems Attack Control Apprentice. DAS: 13 Jun 02.

b. Prior Sv: (1) AFRes 17 Aug 01 - 15 Oct 01 (1 month 29) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Oct 01 for 6 yrs. Svd: 02 Yrs 01 Mo 27 Das, all AMS.

b. Grade Status: Amn - 5 Nov 03 (Article 15, 5 Nov 03)
A1C - 07 Dec 01

c. Time Lost: None.

d. Art 15's: (1) 5 Nov 03, Langley AFB, VA - Article 128. You, did, on or about 30 Sep 03, assault AB [REDACTED] by wrestling and pushing her. Reduction to Airman, forfeiture of \$350.00 pay, 14 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC, 01 OCT 03 - On Base speeding ticket.
LOR, 04 JUN 03 - Late for duty.
RIC, 19 MAY 03 - Failure to obey a lawful order.
RIC, 24 APR 03 - Security violation.
LOR, 22 APR 03 - Late for duty.
LOC, 17 APR 03 - Late for duty.
LOR, 13 DEC 02 - Failure to meet basic military standards, and reporting to duty unshaven.
RIC, 25 OCT 02 - Late for duty.

f. CM: None.

g. Record of SV: 16 Oct 01 - 16 Jun 03 Langley AFB 3 (Initial)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (03) Mos (26) Das
TAMS: (02) Yrs (01) Mos (27) Das

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

Issue 1: After having received a General Discharge under Honorable conditions from the United States Air Force, I have since attended community college studying real estate, as well as learned the trade of carpentry. I have also held down a position at the Newport News Shipbuilders shipyard. I request that my discharge be reviewed, and that I be issued an upgrade on that discharge from General under Honorable conditions to an Honorable discharge with a new reenlistment code.

ATCH
None.

14AUG06/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 1ST FIGHTER WING
LANGLEY AIR FORCE BASE VA

MEMORANDUM FOR AMN: _____

24 Nov 03

FROM: 1 AMXS/CC

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 AFD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, Section H, paragraph 5.49. If my recommendation is approved, your discharge will be characterized as under honorable conditions (General) and you will be ineligible for reenlistment in the Air Force.

2. My reasons for this action are:

a. On 25 Oct 02, you failed to show at your appointed place of duty. For this incident, you received a Record of Individual Counseling (RIC), dated 25 Oct 02.

b. On 13 Dec 02, you failed to meet military standards by reporting to duty unshaven and without a shaving waiver despite being verbally counseled for this same issue two days prior. For this incident, you received a Letter of Reprimand (LOR), dated 13 Dec 02.

c. On 17 Apr 03, you failed to report to your place of duty on time. For this incident, you received a Letter of Counseling (LOC), dated 17 Apr 03.

d. On 22 Apr 03, you failed to report to your place of duty on time. For this incident, you received a LOR, dated 22 Apr 03.

e. On 24 Apr 03, you left your line badge unattended in the specialist flight office while you were working on the flightline. For this incident, you received a RIC, dated 24 Apr 03.

f. On 16 May 03, you failed to obey a lawful order in that you did not ensure your hair was cut to military standards. For this incident, you received a RIC, dated 19 May 03.

g. On 2 Jun 03, you failed to report to your place of duty on time. For this incident, you received a LOR, dated 4 Jun 03.

h. In late Sep 03, you received a speeding ticket, your second such ticket in two weeks. For this incident, you received a RIC, dated 1 Oct 03.

i. On or about 30 Sep 03, you assaulted another airman by wrestling and pushing her. For this incident, you received an Article 15, with a punishment of reduction to the grade of airman, forfeiture of \$350.00 pay, and 14 days extra duty, dated 5 Nov 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 higher authority will decide whether you will be discharged or retained in the Air Force.

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 capt at ADC, on 25th Nov 03, at 0930 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1 Dec 03 unless you request and receive an extension for good cause shown. I will send them 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 have been scheduled for a medical examination. You must report to Aero Space at 1300 hours on 5 Dec 03 for the examination.

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 your Orderly Room.

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

[Redacted signature box]

Commander, 1 AMXS

Attachments:

1. Supporting Documents
 - 1a. RIC, 25 Oct 02
 - 1b. LOR, 13 Dec 02
 - 1c. LOC, 17 Apr 03
 - 1d. LOR, 22 Apr 03
 - 1e. RIC, 24 Apr 03
 - 1f. RIC, 19 May 03
 - 1g. LOR, 4 Jun 03
 - 1h. RIC, 1 Oct 03
 - 1i. Art 15, 5 Nov 03
2. Receipt of Notification Memorandum



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 1ST FIGHTER WING
LANGLEY AIR FORCE BASE VA

DEC 05 2003

MEMORANDUM FOR 1 FW/CC

FROM: 1 FW/JA

SUBJECT: Administrative Discharge – Amn: [REDACTED]

1. I have reviewed the proposed discharge action and find it legally sufficient to support a decision to separate Respondent for minor disciplinary infractions with an under honorable conditions (General) discharge, as soon as he is found medically fit for separation.

2. BACKGROUND:

a. Respondent is a 23-year-old Avionics Systems Apprentice assigned to 1 AMXS. His TAFMSD is 16 Oct 01 and he began his 6-year enlistment on 16 Oct 01. He was assigned to his present unit on 13 Jun 02. Respondent has received the following overall rating on his Enlisted Performance Report (EPR): 3 – 16 Jun 03.

b. On 24 Nov 03, Lt Col: [REDACTED] properly notified Respondent of his recommendation to separate Respondent with an under honorable conditions (General) discharge under the provisions of AFI 36-3208, Chapter 5, Section H, Paragraph 5.49, Minor Disciplinary Infractions. Because Respondent is not entitled to a board hearing, this case has been properly processed in accordance with the notification procedures of AFI 36-3208, Chapter 6, Section B.

3. GOVERNMENT'S CASE:

a. On 25 Oct 02, Respondent failed to show at his appointed place of duty. For this incident, he received a Record of Individual Counseling (RIC), dated 25 Oct 02.

b. On 13 Dec 02, Respondent failed to meet military standards by reporting to duty unshaven and without a shaving waiver despite having been verbally counseled for this same issue two days prior. For this incident, he received a Letter of Reprimand (LOR), dated 13 Dec 02.

c. On 17 Apr 03, Respondent failed to report to his place of duty on time. For this incident, he received a Letter of Counseling (LOC), dated 17 Apr 03.

d. On 22 Apr 03, Respondent failed to report to his place of duty on time. For this incident, he received a LOR, dated 22 Apr 03.

e. On 24 Apr 03, Respondent left his line badge unattended in the specialist flight office while he was working on the flightline. For this incident, he received a RIC, dated 24 Apr 03.

f. On 16 May 03, Respondent failed to obey a lawful order in that he did not ensure his hair was cut to military standards. For this incident, he received a RIC, dated 19 May 03.

g. On 2 Jun 03, Respondent failed to report to his place of duty on time. For this incident, he received a LOR, dated 4 Jun 03.

h. In late Sep 03, Respondent received a speeding ticket, his second such ticket in two weeks. For this incident, he received a RIC, dated 1 Oct 03.

i. On or about 30 Sep 03, Respondent assaulted another airman by wrestling and pushing her. For this incident, Respondent received an Article 15, with a punishment of reduction to the grade of Amn, forfeiture of \$350.00 pay, and 14 days extra duty, dated 5 Nov 03.

4. RESPONDENT'S CASE: Respondent was properly notified of his right to counsel and to submit statements on his behalf for your consideration. On 1 Dec 03, Respondent submitted matters in which he does not apologize for his actions, but admits he has had trouble fitting in. He states that he prefers to remain in the military, as he has valued his time in the Air Force and has learned a lot (Tab 2).

5. DISCUSSION:

a. **A basis for discharge exists and the Respondent should be discharged under that provision.** In accordance with AFI 36-3208, Chapter 5, Section H, Paragraph 5.49, a pattern of misconduct consisting solely of minor disciplinary infractions in the current enlistment makes an airman subject to discharge. Respondent's pattern of misconduct includes failure to go to appointed place of duty on several occasions, failure to meet military standards by not shaving and not having his hair cut properly, leaving his line badge unattended, speeding, and assault. His misconduct began in Oct 02 and has continued until now. His misconduct has been documented in 4 RICs, 1 LOC, three LORs, and an Article 15. Based on the Respondent's record of misconduct, he should be discharged.

b. **The Respondent should be given a general discharge.** Based on Respondent's overall performance, 1 AMXS/CC recommends an under honorable conditions (General) discharge and I agree. AFI 36-3208, Chapter 1, Section B, Paragraph 1.18.1, defines a service characterization of honorable as "[t]he quality of the airman's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate." In contrast, a service characterization of under honorable conditions (General) discharge is appropriate according to AFI 36-3208, Chapter 1, Section B, Paragraph 1.18.2, when "significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record." The Respondent's repeated and deliberate misconduct falls well below Air Force standards of acceptable conduct and performance of duty. The unit tried to rehabilitate the Respondent through progressive discipline but he failed to positively respond. Moreover, the Respondent's misconduct demonstrates a lack of motivation and desire to meet military standards. Respondent's record of misconduct significantly outweighs the positive aspects of his career. I recommend he receive a service characterization of under honorable conditions (General) discharge.

c. **Probation and Rehabilitation (P&R) is not appropriate in this case.** 1 AMXS/CC does not recommend P&R in this case. Respondent shows poor rehabilitative potential based on his continued disregard for military standards despite the unit's efforts to rehabilitate him. Respondent received numerous rehabilitative measures to correct his behavior and continued to

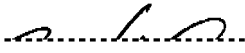
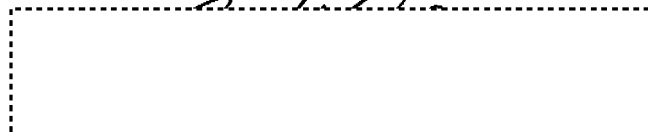
fail to comply with military regulations and standards. He then received an Article 15 for more severe misconduct. His blatant disregard for his commander's authority is evident in the continued nature of and escalation of misconduct. Thus, Respondent has demonstrated that he is a poor candidate for P&R. Therefore, I do not recommend P&R in conjunction with this discharge.

6. ERRORS AND IRREGULARITIES: I note no errors or irregularities prejudicial to Respondent's substantive or procedural rights.

7. OPTIONS: As separation authority in this case, you may:

- a. Direct retention, if you determine the evidence does not warrant discharge; or,
- b. Forward this case to 9 AF/CC with the recommendation that the Respondent receive an honorable discharge; or,
- c. Direct Respondent's separation with an under honorable conditions (General) discharge, with or without P&R; or,
- d. Return this case to the unit for re-initiation, with the recommendation that the Respondent receive an under other than honorable conditions discharge.

8. RECOMMENDATION: Direct Respondent's separation with an under honorable conditions (General) discharge, by signing the attached memorandum. If you have any questions, please contact Capt:; Chief, Adverse Actions, or me at 764-3280.

Staff Judge Advocate

Attachments:

1. Proposed Letter
2. Case File