

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| 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 |
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| COUNSEL | NAME OF COUNSEL AND OR ORGANIZATION | ADDRESS AND OR ORGANIZATION OF COUNSEL | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">YES</td> <td style="width:50%; padding: 2px;">No</td> </tr> <tr> <td style="text-align: center; padding: 2px;">X</td> <td style="padding: 2px;"></td> </tr> </table> | YES | No | X | | | |
| YES | No | | | | | |
| X | | | | | | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
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| | HON | GEN | UOTHC | OTHER | DENY |
| | | | | | X |
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| ISSUES A94.05 A92.00 | INDEX NUMBER A61.00 | <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 2px;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 2px;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 2px;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;">4</td> <td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 2px;">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 25 Apr 2007 | CASE NUMBER FD-2006-00326 |
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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.

ENDORSEMENT

DATE: **5/7/2007**

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-2006-00326

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:

Issue 1. Although not explicitly stated, applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, a Letter of Reprimand, and a Record of Individual Counseling for misconduct. The applicant's Article 15 was for failure to go to his appointed place of duty on two separate occasions, and making two false official statements. He was punished with a suspended reduction in grade to Airman and fifteen days of extra duty. The applicant also received a Letter of Reprimand for a civilian conviction of theft. He was sentenced to pay a Criminal Administration Fee, a Defense Facility Admin Fee, a Victim Witness Fee, a Indigent Defense Application Fee, a year in the Ward County Jail which was suspended, two years probation and 100 hours of Community Service. 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. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Minot AFB, ND on 01 Sep 05 UP AFI 36-3208, para 5.51 (Civilian Conviction). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Mar 85. Enlmt Age: 18 9/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-50, E-61, G-42, M-60. PAFSC: 2M032 - Missile and Space Systems Maintenance Apprentice. DAS: 30 Aug 04.

b. Prior Sv: (1) AFRes 5 Jan 04 - 8 Mar 04 (2 months 4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 9 Mar 04 for 6 yrs. Svd: 01 Yrs 05 Mo 23 Das, all AMS.

b. Grade Status: A1C - 23 Apr 04

c. Time Lost: None.

d. Art 15's: (1) 20 May 05, Minot AFB, ND - Article 86. You did, on or about 25 Apr 05, without authority, go from your appointed place of duty, to wit: 300 Minuteman Drive, Bldg 546. Article 86. You did, on or about 26 Apr 05, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 300 Minuteman Drive, Bldg 546. Article 107. You did, on or about 26 Apr 05, with intent to deceive, make to TSgt [REDACTED] an official statement, to wit: that you could not drive after your dental appointment, which statement was totally false, and was then known by you to be so false. Article 107. You did, on or about 26 Apr 05, with intent to deceive, make to MSgt [REDACTED] an official statement, to wit: that you had a dental appointment on 26 Apr 05 at 1300, which statement was totally false, and was then known by you to be so false. Suspended reduction to Airman. Fifteen days extra duty. (No appeal) (No mitigation)

e. Additional: - (Examiner's Note: The following documents are missing from file. They were listed on the Notification Memorandum).

LOR, 01 AUG 05 - Civil Conviction for theft of property.
 RIC, 04 MAR 05 - Failure to go.

RIC, 18 FEB 05 - Failure to go.

f. CM: None.

g. Record of SV: None.

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

i. Stmt of Sv: TMS: (01) Yrs (07) Mos (27) Das
TAMS: (01) Yrs (05) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Oct 06.
(Change Discharge to Honorable)

Issue 1: I am requesting an upgrade in my discharge for job related purposes. I believe my accomplishments while I was in the Air Force were not considered in my discharge. I was not given hardly anytime to prepare any kind of package to present to my commander to stay in. I did however get several letters of recommendation to keep me in by a few of my superiors, grades, E-8 and higher. I feel my test scores on my CDC's (sic) and all the volunteer work and other accomplishments are enough to give me the upgrade.

ATCH

1. DD Form 149.

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 81ST SPACE WING (AFSPC)
MINOT AIR FORCE BASE, NORTH DAKOTA

15 August 2005

MEMORANDUM FOR A1C: _____, 91 MMXS

FROM: 91 MMXS/CC

SUBJECT: Letter of Notification - AFI 36-3208, Paragraphs 5.51

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, a civilian conviction. The authority for this action is AFPI 36-32, *Military Retirements and Separations*, 14 Jul 93, and AFI 36-3208, *Administrative Discharge of Airmen*, 9 Jul 04, Chapter 5, Section H, paragraph 5.51. If my recommendation is approved, your discharge will be characterized as general or honorable. I am recommending that your service be characterized as general.
2. My reason for this action is: On 17 Jul 05, a Minot Municipal Court convicted you of theft of property. This is a class "C" felony. You were sentenced to pay a Criminal Administration Fee in the amount of \$400.00, a Defense Facility Admin Fee in the amount of \$100.00, a fine in the amount of \$350.00, a Victim Witness Fee in the amount of \$25.00, an Indigent Defense Application Fee in the amount of \$25.00, 1 year in the Ward County Jail (suspended), 2 years probation and 100 hours of Community Service. You also received a Letter of Reprimand on 1 Aug 05. (Atch 1)
3. Other Information:
 - a. You did, at or near Minot Air Force Base, North Dakota, on or about 25 Apr 05, without authority, go from your appointed place of duty, to wit: 300 Minuteman Drive, Bldg 546. (Atch 6)
 - b. You did, at or near Minot Air Force Base, North Dakota, on or about 26 Apr 05, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 300 Minuteman Drive, Bldg 546.
 - c. You did, at or near Minot Air Force Base, North Dakota, on or about 26 Apr 05, with intent to deceive, make to TSgt: _____ an official statement, to wit: You could not drive after your dental appointment, which statement was totally false, and was then known by you to be so false.
 - d. You did, at or near Minot Air Force Base, North Dakota, on or about 26 Apr 05, with intent to deceive, make to MSgt: _____ an official statement, to wit: you had a dental

Global Power for America

FD 2006-00326

appointment on 26 Apr 05 at 1300, which statement was totally false, and was then known by you to be so false.

For this misconduct, you were punished under Article 15 of the UCMJ on 20 May 05. An Unfavorable Information File was established.

e. On 2 Mar 05, you failed to report for a scheduled water pump sandbag class at 1000 hours. You received a Record of Individual Counseling (RIC) on 4 Mar 05.

f. On 16 Feb 05, you requested permission to continue moving on the 17th. You were told you would have to ask MSgt: [redacted] or MSgt: [redacted]. The next day you were supposed to be at work at 1200, but failed to show up. You received an RIC on 18 Feb 05.

4. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court Martial jurisdiction (5 BW/CC) 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.

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 with Capt: [redacted] Area Defense Counsel at 300 Summit Drive, Room 306A, on Tuesday, 16 Aug 2005 at 1000 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 1400 hours, on 18 Aug 2005, 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 the 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND, on Thursday, 18 Aug 2005 at 1330 hours, for the examination. You must not drink alcoholic beverages 72 hours prior to the exam.

9. The Privacy Act of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the Orderly Room.

10. Sign the attached acknowledgment and the Statement of Understanding and return them to me immediately.



Commander, 91st Missile Maintenance Squadron

Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. Criminal Judgment Case #
4. Letter of Reprimand, 1 Aug 05
5. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 17 May 05
6. Unfavorable Information File Summary, AF IMT 1137
7. Record of Individual Counseling, 4 Mar 05
8. Record of Individual Counseling, 18 Feb 05