

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

A1C

AFSN/SSAN

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

VOTE OF THE BOARD

HON GEN UOTIC OTHER DENY

X

X

X

X

X

ISSUES
A92.01
A92.03

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 FILE

HEARING DATE

08 Mar 2007

CASE NUMBER

FD-2006-00352

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

DATE: 6/8/2007

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-2006-00352

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 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:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, three Letters of Reprimand, and one Letters of Counseling for misconduct. The misconduct included late to work, reporting to work with alcohol in his system on two occasions, dereliction of duty, failed dorm room inspection, and drunk on duty. 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.

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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Barksdale AFB, LA on 01 Feb 06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Jun 82. Enlmt Age: 19 11/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-39, E-39, G-59, M-58. PAFSC: 3E751 - Fire Protection Journeyman. DAS: 18 Jun 03.

b. Prior Sv: (1) AFRes 5 Jun 02 - 2 Dec 02 (5 months 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Dec 02 for 6 yrs. Svd: 03 Yrs 01 Mo 29 Das, all AMS.

b. Grade Status: A1C - 10 Jan 06 (Article 15, 10 Jan 06)
SrA - 17 May 05
A1C - 17 Jan 03

c. Time Lost: None.

d. Art 15's: (1) 10 Jan 06, Barksdale AFB, LA - Article 112. You, were, on or about 17 Dec 05, found drunk while on duty as an Alarm Room Operator. Reduction to A1C, and forfeiture of \$820.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: LOR, 20 JUN 05 - Late for work and arriving with alcohol in his systems.
LOC, 16 MAR 05 - Failed dormitory room inspection.
LOR, 29 OCT 04 - Late for duty and dereliction of duty.
LOR, 28 SEP 04 - Late to work and reporting with alcohol in his system.

f. CM: None.

g. Record of SV: 03 Dec 02 - 15 Jul 04 Barksdale AFB 3 (HAF Dir)
16 Jul 04 - 15 Jul 05 Barksdale AFB 4 (Annual)

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

i. Stmt of Sv: TMS: (03) Yrs (07) Mos (27) Das
TAMS: (03) Yrs (01) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 25 Jul 06.
(Change Discharge to Honorable)

Issue 1: I would like to receive an honorable discharge. My time in the military was a once in a lifetime experience. During my time spent at Barksdale AFB, I was a good worker. I always put my all into my work. My awards, and work completion is attached.

ATCH

1. Applicants Issues.
2. Global War On Terrorism Expeditionary Medal.
3. Certificate of Achievement.
4. Four Training Certificates.

06OCT06/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 2D BOMB WING (ACC)
BARKSDALE AIR FORCE BASE, LOUISIANA

FD 2006-00352

26 JAN 2006

MEMORANDUM FOR 2 BW/CC

FROM: 2 BW/JA

SUBJECT: Legal Review of Administrative Discharge—
A1C [REDACTED], 2 CES

1. I have reviewed the proposed discharge action case file and find it legally sufficient to support a decision to separate A1C [REDACTED]; 2 CES with an under honorable conditions (general) discharge as soon as he is found medically fit for separation.

Background: On 18 Jan 06, 2 CES/CC properly notified the respondent of the recommendation to separate the respondent under the provisions of AFI 36-3208, paragraph 5.49 for misconduct: minor disciplinary infractions with an under honorable conditions (general) discharge. Because respondent is not entitled to a board hearing, this case has been pursued via the notification procedures of AFI 36-3208, Section 6B.

2. **Evidence for the Government:**

a. The respondent was, at or near Barksdale Air Force Base, Louisiana, on or about 17 Dec 05, found drunk while on duty as an Alarm Room Operator. As a result, he received nonjudicial punishment dated 10 Jan 06.

b. The respondent, did, at or near Barksdale Air Force Base, Louisiana, on or about 10 Jun 05, fail to go at the time prescribed to him appointed place of duty, building number 6426 (Fire Station #1). As a result, he received a Letter of Reprimand dated 20 Jun 05.

c. The respondent, did, at or near Barksdale Air Force Base, Louisiana, on or about 9 Mar 05, fail a dormitory room inspection. As a result, he received a Letter of Counseling dated 16 Mar 05.

d. The respondent, did, at or near Barksdale Air Force Base, Louisiana, on or about 29 Oct 04, fail to report to work and was derelict in the required performance of his duties, in that he failed to show up on time. As a result, he received a Letter of Reprimand dated 29 Oct 04.

e. The respondent at or near Barksdale Air Force Base, Louisiana, on or about 25 Sep 04 he was derelict in the performance of his duties, in that he failed to show up to work on time. He

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came to work with the smell of alcohol on his breath. He was escorted to the security forces building where he took a breathalyzer. The test resulted in a .039. As a result, he received a Letter of Reprimand dated 28 Sep 04.

3. **Evidence for the Respondent:** The respondent was properly notified of his right to counsel and to submit statements on his behalf for your consideration. The respondent did consult with legal counsel and did submit statements for your consideration. He is proud to have had the opportunity to protect and serve this great nation. The military has given him so much he will be able to use outside the military.

4. **Discussion:**

a. **A basis for discharge exists.** The respondent's discharge is based on misconduct: minor disciplinary infractions. The authority for this discharge is AFPD 36-32 and AFI 36-3208, paragraph 5.49.

b. **The respondent should be discharged under AFI 36-3208, paragraph 5.49.** The respondent has repeatedly committed minor disciplinary infractions that were followed by opportunities to correct his behavior and comply with Air Force standards. He knows the standards of conduct expected of Airmen but has chosen not to meet them. He has been repeatedly drunk on duty, has failed to be on time to work and failed dormitory inspections. For committing these minor disciplinary infractions, the respondent should be discharged.

c. **The respondent should be given an under honorable conditions (general) discharge.** Based on the respondent's military record in the current enlistment, including personal conduct, performance of duty, and the reason for discharge, 2 CES/CC recommends an under honorable conditions (general) discharge. According to AFI 36-3208, paragraph 1.18.2, a general discharge is appropriate when "significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record." His negative behavior is very evident which ranges from drunk on duty to failure to uphold work standards.

d. **Probation and Rehabilitation (P&R) is not appropriate in this case.** P&R gives Airmen an opportunity to stay in the Air Force, show that they can meet Air Force standards, and complete their current enlistment. The respondent's retention on active duty in a probationary status is not consistent with the maintenance of good order and discipline in the Air Force.

5. **Options:** As the special court-martial convening authority and separation authority in this case, you may:

a. Direct retention if you determine the evidence does not warrant discharge;

b. Forward this case to the general court-martial convening authority, 8 AF/CC, with the recommendation that the respondent receive an honorable discharge;

c. Direct separation with an under honorable conditions (general) discharge with or without probation and rehabilitation;

d. Return this case to the unit for re-initiation and consideration of an under other than honorable conditions (UOTHC) discharge.

6. **Recommendation:** Direct respondent's separation with an under honorable conditions (general) discharge without probation and rehabilitation. A proposed memorandum to that effect is attached for your signature.

7. **Barment:** Barment from Barksdale Air Force Base is not recommended.

[Redacted signature box]

Chief, Adverse Actions

I concur.

[Redacted signature box]

Staff Judge Advocate

Attachments:

- 1. Proposed Letter
- 2. Case File



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 2D BOMB WING (ACC)
BARKSDALE AIR FORCE BASE, LOUISIANA

PD 2006-00 352

JAN 18 2006

MEMORANDUM FOR A1C: [REDACTED], 2 CES

FROM: 2 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: minor disciplinary infractions. The authority for this action is AFD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are as follows:

a. You, were, at or near Barksdale Air Force Base, Louisiana, on or about 17 Dec 05, found drunk while on duty as an Alarm Room Operator. As a result, you received nonjudicial punishment dated 10 Jan 06.

b. You, did, at or near Barksdale Air Force Base, Louisiana, on or about 10 Jun 05 fail to go at the time prescribed to your appointed place of duty, building number 6426 (Fire Station #1). As a result, you received a Letter of Reprimand dated 20 Jun 05.

c. You, did, at or near Barksdale Air Force Base, Louisiana, on or about 9 Mar 05 fail a dormitory room inspection. As a result, you received a Letter of Counseling dated 16 Mar 05.

d. You, at or near Barksdale Air Force Base, Louisiana, on or about 29 Oct 04 fail to report to work and were derelict in the required performance of your duties, in that you failed to show up on time. As a result, you received a Letter of Reprimand dated 29 Oct 04.

e. You, at or near Barksdale Air Force Base, Louisiana, on or about 25 Sep 04 were derelict in the performance of your duties, in that you failed to show up to work on time and came to work with the smell of alcohol on your breath. You were escorted to the security forces building where you took a breathalyzer. The test resulted in a .039. As a result, you received a Letter of Reprimand dated 28 Sep 04.

3. 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 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, 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 Capt: _____, Area Defense Counsel, at Building 4714, Third Floor, Barksdale AFB, DSN 781-8355 on 19 January 2006 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 23 January 2006 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 rights to do so.

7. You have been scheduled for a medical examination. You must report to the 2d Medical Group, Barksdale AFB at _____ hours on _____ 2006 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 in the unit orderly room.

Commander

Attachments:

1. Receipt of Notification Memorandum
2. Record of Nonjudicial Punishment Proceedings, AF Form 3070, dated 10 Jan 06, and 7 pages of related documents
3. Letter of Reprimand, dated 20 Jun 05
4. Letter of Counseling, dated 16 Mar 05
5. Letter of Reprimand, dated 29 Oct 04
6. Letter of Reprimand, dated 28 Sep 04