

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) _____	GRADE SRA	AFSN/SSAN _____
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TYPE GEN	X	PERSONAL APPEARANCE	RECORD REVIEW
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COUNSEL	YES	No	NAME OF COUNSEL AND OR ORGANIZATION _____	ADDRESS AND OR ORGANIZATION OF COUNSEL The American Legion Military Review Boards Representative
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MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
_____	X				
_____	X				
_____	X*+				
_____	X*+				
_____	X				

ISSUES A94.11 A02.17 A92.22 A01.49 A93.01 A92.16 A01.48	INDEX NUMBER A67.10	<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="width:5%; 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 01 May 2007	CASE NUMBER FD-2006-00359	
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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 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.

* Change Reason for Discharge
 + Change RE Code

INDORSEMENT	DATE: 5/2/2007
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-2006-00359

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, on 01 May 2007. The following witnesses also testified on the applicant's behalf: her sister, YN2 [REDACTED], USN, and her father, Mr. [REDACTED].

The following additional exhibits were submitted at the hearing:

Exhibit #5 Statement from The American Legion Military Review Boards Representative

Exhibit #6 NIMH Pamphlet on Bipolar Disorder

Exhibit #7 Three character reference letters

Exhibit #8 Civilian Medical Records Extract

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The discharge is upgraded to honorable. Change of reason and authority for discharge and change of reenlistment code are denied.

ISSUES:

Issue 1. Applicant contends she was not properly assessed for her behavioral and medical issues. She admitted that she had seen Air Force Life Skills professionals for treatment and counseling about numerous mental health related issues for approximately 18 months prior to her discharge and that the treatment had helped her. Upon her discharge, the Applicant began seeing her childhood medical doctor who had diagnosed her with depression prior to her entry on active duty. He did not diagnose her with bipolar disorder or refer her for specialized psychiatric care until late 2005. She believed her subsequent diagnosis of having bipolar disorder in 2006 proved that the disorder also existed prior to her discharge, but was missed due to improper assessment while on active duty. The medical records did not confirm whether the Life Skills professional (BSC) was a psychologist or a licensed clinical social worker. There was no documentation in the medical records showing she was seen by a psychiatrist or that a psychiatrist countersigned any diagnosis of mental health conditions. Despite this, the Board was not persuaded that the Applicant met all criteria for bipolar disorder while she was on active duty, particularly since no civilian medical doctor or psychiatrist diagnosed her with bipolar disorder until 2006.

Issue 2. Applicant contends that her commander failed to recommend probation, rehabilitation (P&R) or rehabilitative transfer IAW AFI 36-3208, Chapter 7. While it is true her commander failed to recommend P&R, it is clear he considered doing so, and that the option of P&R was discussed in the legal review and was presented as an option to the separation authority. The records indicated the applicant received two Letters of Reprimand (with one of them being placed in an Unfavorable Information File), a Letter of Admonishment (LOA), and two Records of Individual Counseling (RIC) over the course of only 11 months. The DRB opined that through these administrative actions, the applicant had ample opportunities to change her negative behavior and that further time on active duty would not be conducive to the maintenance of good order and discipline in her unit. The Board concluded the applicant's varied acts of misconduct were of such a nature and duration that it was reasonable for the commander and the separation authority to refuse to offer her a period of probation and rehabilitation.

Issue 3. Applicant contends that her chain of command failed to reply to her statements in response to the first few infractions. The first infractions noted in the file were a RIC and an LOA. The Board found her command followed the normal course of action and took reasonable steps to convey expectations and feedback to the Applicant, including having her commander review and comment in writing on the matters noted in the RIC. There is no requirement and it is not normal practice for commanders and NCOs in the Air Force to comment further in writing once a member responds to an LOA. The command representative normally issues the LOA, provides the member with an opportunity to respond, and then decides whether to leave the action in place or rescind it once they have considered the response. That is exactly what happened for the Applicant's LOA. The record shows the NCO who issued the LOA reviewed her comments as did her commander, admittedly, without further written comment. In the collective experience of the Board, it would be the extremely rare case where an NCO or commander would write out and include their response to a subordinate's response to their LOA. Particularly with regard to LOAs, which are administrative actions at the "low threat" end of the spectrum, the Board found the Applicant's superiors were not required to, nor was it common Air Force practice to, create further documentation in this type of administrative action. The Board found the Applicant did not meet her burden of proof to merit this issue playing any part in the ultimate decisions in this case.

Issue 4. Applicant contends her legal counsel and support were inadequate during the administrative discharge process. The extent of the Applicant's argument is the barebones allegation in her counsel's letter that "a medical consideration should have been considered by ...her assigned JAG counsel." She also believes it was an impropriety for the SJA's office to fail to catch her commander's error when he noted "NONE" in the entry for "Medical or other data meriting consideration" on the commander's letter recommending the Applicant's discharge. No documentation beyond the discharge documents themselves or any testimony was offered to prove the Applicant's counsel failed to consider any medical issues. Similarly, the Applicant's evidence and testimony were found insufficient to prove an impropriety or inequity existed as to her commander's discretionary decision to mark "NONE" on the entry for "medical or other data meriting consideration."

Issue 5. Applicant contends that she continues to experience limited opportunities for employment and further education with a less than fully honorable discharge characterization. She also cited her desire to receive the G.I. Bill benefits as justification for upgrade. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but did not find it to be a matter of inequity or impropriety which contributed significantly to the decision to upgrade. Despite this finding, for good cause shown and discussed below, the Applicant's discharge characterization will be upgraded to fully honorable.

Issue 6. The applicant contends that she is a more mature person who is managing her diagnosed disability which was unnoticed and undiagnosed by military medical professionals. Numerous documents and significant portions of testimony presented to the Board concerned the applicant's post-service activities and the diagnosis of her bipolar disorder in 2006. Testimony and medical records established that her personal civilian family physician who had treated her for depression prior to her entry on active duty, did not treat her for bipolar disorder or refer her to any specialist until over three years after she was discharged. The DRB was pleased to see that the applicant was doing well and has held a good, steady job for over four years and was progressing and stable in her treatment of her disorder. This issue was not overly persuasive to the Board's decision, but, for other reasons, found her discharge characterization should be changed to honorable.

Issue 7. Applicant contends that her quality of service deserves an honorable discharge characterization. She states that her discharge did not take into account the good things she did while in the service. The DRB took note of the applicant's duty performance as documented by her performance reports, letters of recommendation, and other accomplishments. They found the relatively minor nature and number of misconduct incidents was, in fact, outweighed by the positive aspects of the applicant's duty performance,

extracurricular involvements, and volunteer work over the course of her enlistment, so her discharge characterization should be changed to honorable.

As to the Applicant's contention that the reason (misconduct) for her discharge be changed to "Secretarial Authority", the Board found that the reason for her discharge was properly labeled misconduct since it met the standards described in AFI 36-3208, paragraph 5.49 as minor disciplinary infractions. Even though the Applicant may have had a sufficient diagnosis to have qualified for a discharge for mental health related reasons, language in the discharge instruction concerning conditions that interfere with military service (AFI 36-3208, para. 5.11) indicates that "discharge under this provision is not appropriate if the airman's record would support discharge for another reason such as misconduct." Conversely, the scope of the paragraph allowing Airmen to be discharged for "minor disciplinary infractions" easily includes individuals, like the Applicant, who commit the types of minor misconduct involved in this case and a discharge for minor disciplinary infractions is consistent with the number of incidents of misconduct in which she had engaged. To change the discharge to Secretarial Authority would indicate that misconduct was not an appropriate reason for her discharge. The Board concluded the reason for the discharge received by the applicant was appropriate. Similarly, without changing the reason for discharge, no change in the RE code was 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.

However, in view of the foregoing findings, the Board further concludes that there exists an adequate basis for upgrade of discharge, but not for changing the reason for discharge or the RE code. Thus the applicant's discharge characterization will be changed to honorable under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Schriever AFB, CO on 12 Jul 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 9 Jan 80. Enlmt Age: 19 2/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-90, E-53, G-36, M-47. PAFSC: 3A051 - Information Management Information. DAS: 23 Nov 99.

b. Prior Sv: (1) AFRes 17 Mar 99 - 13 Jul 99 (3 months 27 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 14 Jul 99 for 4 years. Svd: 02 Yrs 11 Mo 29 Das, all AMS.

b. Grade Status: SrA - 14 Nov 01

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR/UIF, 15 APR 02 - Failed dorm room inspection.
LOR, 04 MAR 02 - Spending excessive duty time reviewing personal emails.
RIC, 02 OCT 01 - Failed dorm room inspection.
LOA, 21 MAY 01 - Failure to go.
RIC, 16 MAY 01 - Dereliction of duty and unacceptable behavior.

f. CM: None.

g. Record of SV: 14 Jul 99 - 15 Jan 01 Schriever AFB 5 (HAF DIR)
02 Jan 01 - 20 Nov 01 Schriever AFB 3 (CRO)

h. Awards & Decs: AFOUA W/1 OLC, NDSM, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (03) Mos (26) Das
TAMS: (02) Yrs (11) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 Sep 06.
(Change Discharge to Honorable)

Issue 1: I don't feel that I deserved an (sic) General Under Honorable discharge because I had a mental breakdown that my superiors did not address or recognize. They did not provide me with medical attention.

ATCH

1. Nine character reference letters.
2. Twelve Appreciation Award/Certificates.

8NOV06/day



DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)

MEMORANDUM FOR SRA:

21 JUN 02

FROM: 3 SOPS/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 AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as general.

2. My reasons for this action are:

a. On or about 11 May 01 you received notice that you were scheduled for Security Forces augmentee duty and to report to guard mount at 0525 hrs on 14 May 01. However, you did not properly inform anyone in your chain of command of your mandatory duty which resulted in you missing a shift that you were scheduled to work. On or about 7 May 01 thru 11 May 01, you were tasked with a listing of 10 items to be completed in which only 5 were completed. On or about 16 May 01 you returned to work 20 minutes late from lunch. Prior to that you had been briefed by your section chief on the office lunch policy. For this misconduct you received a Record of Individual Counseling (AF FORM 174) dated 16 May 01. (atch 1a)

b. On or about 15 May 01 you failed to go to a scheduled appointment to fire the M-16A2 at the USAF Academy CATM Range. For this misconduct you received a Letter of Admonishment (LOA) dated 21 May 01. (atch 1b)

c. On or about 2 Oct 01 you failed dorm room inspection. You must maintain your assigned quarters in accordance with standards outlined in 21 SWPAM 32-5, Unaccompanied Housing Brochure. Prior to the inspection, you were verbally counseled for the unacceptable condition of your room by the squadron First Sergeant. For this misconduct you received an AF Form 174 dated 2 Oct 01. (atch 1c)

d. On or about 15 Jan 02 it was confirmed that you were spending an excessive amount of duty time checking your personal e-mail. Furthermore, this problem continued through 13 Feb 02, during which time you were verbally counseled on numerous occasions. Failure to obey a lawful order is in direct violation of Art 92, UCMJ. For this misconduct you received a Letter of Reprimand (LOR) dated 4 Mar 02. (atch 1d)

e. On or about 6 Apr 02 you failed a quarterly dorm inspection for the second time. For this misconduct you received an LOR dated 15 Apr 02 which established an Unfavorable Information File (UIF) dated 22 Apr 02. (atch 1e)

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 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 the Area Defense Counsel at Peterson AFB at **1330 hours on 24 Jun 02**. 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 within 3 workdays from the date you receive this memorandum of notification 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 complete the attached DD Form 2697 (atch 5) and report to the Peterson AFB Flight Medicine Clinic at **1340 hours on 25 Jun 02** for the examination. You must arrive 30 minutes prior to your scheduled appointment.

8. You must report to MPF Separations at **0900 hours on 26 Jun 02** to receive a briefing. You can contact the Separations office at 567-5335.

9. 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 your unit orderly room.

[Redacted signature box]

Commander

Attachments:

- 1. Derogatory Data:
 - a. AF FORM 174, 16 May 01
 - b. LOA, 21 May 01
 - c. AF FORM 174, 2 Oct 01
 - d. LOR, 4 Mar 02

- e. LOR, 15 Apr 02, UIF, 22 Apr 02
2. Airmen's Receipt of Notification
3. Airmen's Statement
4. Recoupment Statement
5. DD Form 2697