

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 AIC | 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 |
| YES | No | |
| | X | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
|---|-------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| <div style="border: 1px dashed black; height: 100px; width: 100%;"></div> | | | | | X |
| | | | | | X |
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| ISSUES A93.21 A94.05 | INDEX NUMBER A67.90 | 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 HEARING |

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|------------------------------------|-------------------------------------|--|
| HEARING DATE 15 Mar 2007 | CASE NUMBER FD-2006-00372 | |
|------------------------------------|-------------------------------------|--|

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.

| | |
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| INDORSEMENT | DATE: 3/16/2007 |
| 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-2006-00372

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: The applicant contends discharge was inequitable because it was too harsh and did not take into account his medical condition. The member was being treated for recurrent ear infections while on active duty. Following a review of all available facts and evidence in the case, the Board found no causal or mitigating relationship between the member's instances of misconduct and his medical condition. The records indicated the applicant received three Article 15s, two Letters of Reprimand, one Letter of Counseling, and six Records of Individual Counseling for misconduct. The misconduct included on divers occasions, substandard job performance, failure to complete assigned training, failure to go, dereliction of duty, and being late for work. 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.

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 Offutt AFB, NE on 26 Aug 02 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 14 Aug 72. Enlmt Age: 26 8/12. Disch Age: 30 0/12. Educ: HS DIPL. AFQT: N/A. A-41, E-50, G-53, M-32. PAFSC: 4A031 - Health Services Management Apprentice. DAS: 20 Dec 99.

b. Prior Sv: (1) AFRes 29 Apr 99 - 02 Jun 99 (1 month 4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 3 Jun 99 for 4 yrs. Svd: 03 Yrs 02 Mo 24 Das, all AMS.

b. Grade Status: A1C - 13 Mar 02 (Vacation of Article 15, 18 Apr 02)
SrA - 03 Oct 01

c. Time Lost: None.

d. Art 15's: (1) 23 May 02, Offutt AFB, NE - Article 86. You, did, on or about 9 May 02, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 4000, Room 1F03. Suspended reduction to Airman. Twenty days additional duty, and a reprimand. (No appeal) (No mitigation)

(2) 18 Apr 02, Vacation, Offutt AFB, NE - Article 86. You, did, on or about 25 Mar 02, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Ehriling Berquist Hospital, Emergency Room. Reduction to A1C. (No appeal) (No mitigation)

(3) 13 Mar 02, Offutt AFB, NE - Article 86. You, did, on or about 15 Feb 02, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Ehriling Berquist Hospital, Room 1K47. Suspended reduction to A1C. Fifteen days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 07 AUG 02 - Failure to go.
RIC, 08 MAY 02 - Failure to complete assigned training.
RIC, 18 APR 02 - Dereliction of duty.
RIC, 05 MAR 02 - Late for work.

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES
(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Service and Communications Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization of reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

| | | | | | |
|---------------------------------------|-----------------------------------|--------------|---------------------------|---|-------------|
| a. BRANCH OF SERVICE (X one) | ARMY | MARINE CORPS | NAVY | <input checked="" type="checkbox"/> AIR FORCE | COAST GUARD |
| b. NAME (Last, First, Middle Initial) | c. GRADE/RANK AT DISCHARGE A/C | | d. SOCIAL SECURITY NUMBER | | |

| | | | | |
|---|--|--|--|--|
| 2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) August 13, 2001 | 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) | | 5. BOARD ACTION REQUESTED (X one) | |
| | <input type="checkbox"/> HONORABLE | | <input checked="" type="checkbox"/> CHANGE TO HONORABLE | |
| | <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS | | CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS | |
| | <input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS | | CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) | |
| 3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION Offutt AFB 55 | <input type="checkbox"/> BAD CONDUCT (Special court-martial only) | | CHANGE NARRATIVE REASON FOR SEPARATION TO: | |
| | <input type="checkbox"/> UNCHARACTERIZED | | | |
| | <input type="checkbox"/> OTHER (Explain) | | | |

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)
 My dismissal from the United States Air Force and the reasons given me for it were unfair and inequitable given: (1) that my tardiness issues (the singular reason given me for my abrupt dismissal) I was cited for were the sole product of my ill health and not neglect to duty; (2) that my command team to which I reported for the majority of my tour of duty had no issue with my performance; (continued in Item 14)

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) N/A
 AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)
 Medical records supporting my ear canal condition, including previous insertion of surgically implanted drainage tubes several years prior to my entry into the military service, are a matter of record with my medical health file.

9. TYPE OF REVIEW REQUESTED (X one)

CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.

I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.

I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10. a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13. a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

12. a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

CASE NUMBER
(Do not write in this space.)

a. SIGNATURE - REQUIRED

b. DATE SIGNED - REQUIRED (YYYYMMDD)
5/6/05

FD2006-00372

PETITION FOR UPGRADE

NOW COMES the undersigned Petitioner, [REDACTED]; and for his (1) Application for the Review of Discharge from the Armed Forces of the United States; and (2) Petition for Upgrade, states as follows:

1. I entered the United States Air Force in June 1999. I did so for several reasons including to further my education; and to reestablish, in a disciplined way, the pursuit of my career path and goals after the untimely death of my younger brother. Both of my grandfathers were veterans of World War II, and my father served as a Ranger and Forward Observer in Vietnam. Two of my uncles served in the Air Force, and one in the United States Navy. All served honorably.
2. My enlistment period was for four (4) years.
3. For basic training, I was assigned and completed my initial training at Lackland Air Force Base, San Antonio, Texas.
4. I, thereafter, transferred to Sheppard Air Force Base, Wichita Falls, Texas, and entered Technical School upon my selection of Radiology as my course of study. Having no previous course work in Radiology, as did many others in my class, I was reassigned and completed course work as a Medical Records Technician.
5. My initial assignment following receipt of my diploma was to Offutt Air Force Base, Omaha, Nebraska at Erhling Berquist Air Force Hospital.
6. Included in my general job duties and responsibilities, in no particular order, among others, were initial creation of patient records, retrieval of record entries for patients from areas throughout hospital, checking in/checking out records to various departments, keeping records filing up to date, retiring completed patient files, various administrative assignments such as acting as desk customer service representative, etc.

7. To maintain general medical records technician job responsibility currency, I was additionally scheduled for ongoing course work (CDC training).

8. In this assignment, I was generally scheduled to the day shift working 8:00 a.m. to 5:00 p.m. Monday through Friday, reporting to the Medical Records area of the hospital under the supervision of Staff Sergeant [REDACTED]

9. In addition to this assignment, I also pulled periodic security duty responsibilities at the hospital to protect against unauthorized entry. Following the September 11, 2001 terrorist attack on our nation, my security detail assignment became more regular and urgent. In fact, my security detail scheduling frequently extended into weekday evening hours and included duty on weekends.

10. My hospital security assignment required additional security team training, both in the classroom and in the field. This training, too, was ongoing.

11. Up until approximately 12 to 18 months before my expected normal tour of duty completion (end of May 2002), my duty assignments proceeded uneventfully. However, this is not to say that Sergeant [REDACTED] was not a tough taskmaster expecting top performance from me as well as others.

12. At no time during my reporting to my immediate supervisor was it ever made known to me that anything about my performance might jeopardize my ability to successfully complete my tour of duty.

13. This is true, even though I was continually suffering from ear infections brought about in large part by problems with blockages in my ear canal drainage tubes. For these problems, I received antibiotics and other medical assistance from the hospital's clinic staff to relieve my fever, distress and discomfort.



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

PD7006-00372

13 aug 02

MEMORANDUM FOR A1C: [REDACTED]

FROM: 55 MDOS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Misconduct--Pattern of Misconduct. The authority for my recommendation is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 14 January 2000, you were late for duty. For this incident you received a Letter of Counseling, dated 14 January 2000. (Atch 1-1)

b. On 9 June 2000, 12 June 2000, and 14 June 2000, you were late for duty. For this incident you received a Record of Individual Counseling, dated 14 June 2000. (Atch 1-2)

c. On 24 October 2001 and 2 November 2001, you were late for duty. For this incident you received a Record of Individual Counseling, dated 2 November 2001. (Atch 1-3)

d. On 6 November 2001, you were conducting personal business on the telephone. On 6 November 2001, you improperly booked an appointment. On 7 November 2001, you did not properly check in a patient. For these incidents you received a Record of Individual Counseling, dated 7 November 2001. (Atch 1-4)

e. On 9 January 2002 and 12 January 2002, you were late for duty. On 18 January 2002, you failed to report for a security team detail. For these incidents you received a Letter of Reprimand, dated 29 January 2002. (Atch 1-5)

f. On 5 March 2002, you were late for duty. For this incident, you received a Record of Individual Counseling, dated 5 March 2002. (Atch 1-6)

g. On 15 February 2002, you failed to go to your appointed place of duty. For this incident you received Nonjudicial Punishment, dated 13 March 2002, consisting of a suspended reduction to the grade of Airman First Class and fifteen days extra duty. In addition, this action established an Unfavorable Information File (UIF). (Atch 1-7)

h. On 25 March 2002, you failed to go to your appointed place of duty. For this incident you received Vacation of Suspended Nonjudicial Punishment, dated 18 April 2002, consisting of reduction to the grade of Airman First Class, with a new date of rank of 13 March 2002. In addition, this action was placed in your existing UIF. (Atch 1-8)

i. On 9 May 2002, you failed to go to your appointed place of duty. For this incident you received Nonjudicial Punishment, dated 23 May 2002, consisting of a suspended reduction to the grade of Airman, twenty days extra duty, and a reprimand. In addition, this action was placed in your existing UIF. (Atch 1-9)

j. On 26 July 2002, you failed to report for a security team detail. For this incident you received a Letter of Reprimand, dated 7 August 2002. (Atch 1-10)

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. If you are discharged, you will be ineligible for reenlistment in the Air Force and probably any other branch of the military.

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 Captain: _____; Bldg 323C, RM 302, Phone 4-3939, at 1500 on 13 Aug 02. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 16 Aug 02 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 on 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 the 55th Medical Group, 14 AUG 02 at 1430 on RED TEAM for the examination. Please pick up your medical records prior to your appointment.

8. You have been scheduled for an initial separation appointment. You must report to the 55th Mission Support Squadron, Separations and Retirements Section, Room 235, Bldg 323C, at 0915 on 14 Aug 02 with your escort.

9. You have been scheduled for a pre-separation briefing. You must report to the Family Support Center at _____ on _____ for the briefing.

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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 in the unit orderly room.

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



Commander, 55th Medical Operations Squadron

Attachments:

Atch 1-1; LOC, dated 14 Jan 00

Atch 1-2; RIC, dated 14 Jun 00

Atch 1-3; RIC, dated 2 Nov 00

Atch 1-4; RIC, dated 7 Nov 00

Atch 1-5; LOR, dated 29 Jan 02

Atch 1-6; RIC, dated 5 Mar 02

Atch 1-7; NJP/UIF, dated 13 Mar 02

Atch 1-8; Vacation of NJP, dated 18 Apr 02

Atch 1-9; NJP/UIF, dated 23 May 02

Atch 1-10; LOR, dated 7 Aug 02