

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) _____	GRADE AIC	AFSN/SSAN _____
--	--------------	--------------------

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES <input type="checkbox"/>	No <input checked="" type="checkbox"/>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UO/HC	OTHER	DENY
_____ _____ _____ _____ _____					X
					X
					X
					X
					X

ISSUES A94.05	INDEX NUMBER A62.00	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <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> </table>	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
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 08 Mar 2007	CASE NUMBER FD-2006-00373															

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.

INDORSEMENT		DATE: 3/9/2007
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-2006-00373

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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received six Letters of Reprimand and one Record of Individual Counseling for misconduct. The misconduct included consuming alcoholic beverages as a minor on three separate occasions, failure to follow crew leader instructions, causing damage to government property, dereliction of duty, failure to go, failure to return to duty after completion of a detail, providing a false official statement to an Air Force recruiter. The Board noted that on the Standard Form 86, Questionnaire for National Security Positions, that the applicant answered NO to the question pertaining to police records and arrests. The SF 86 shows that even though the applicant marked NO, he went on to list the shoplifting charge and miscellaneous speeding tickets. The Board also found that the applicant indicated, on the SF 86, that he had used marijuana a total of four times from 1998 to 2000. However, in an interview conducted November 1, 2000, the applicant stated that from 1997 through January 2000 he had smoked marijuana an average of 1 to 2 times per month. 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. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on April 12, 2000) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 Mountain Home AFB, ID on 21 Feb 02 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 2 Jul 80. Enlmt Age: 19 8/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-63, E-53, G-66, M-53. PAFSC: 2A6333 - Aircrew Egress Systems Apprentice. DAS: 26 Jul 00.

b. Prior Sv: (1) AFRes 7 Mar 00 - 28 Mar 00 (22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 29 Mar 00 for 6 years. Svd: 01 Yrs 10 Mo 23 Das, all AMS.

b. Grade Status: A1C - 12 May 00

c. Time Lost: None.

d. Art 15's: (1) None.

e. Additional: LOR, 27 DEC 01 - Providing a false official statement.
 LOR, 10 SEP 01 - Failure to return to duty after completion of a detail.
 LOR, 11 JUL 01 - Dereliction of duties and failure to go.
 LOR, 15 MAY 01 - Third instance of what appears to be underage drinking.
 RIC, 19 APR 01 - Failure to follow crew leader instructions, causing damage.
 LOR, 25 JAN 01 - Cited for underage drinking.
 LOR, 15 DEC 00 - Consuming alcoholic beverages as a minor.

f. CM: None.

g. Record of SV: 26 Jul 00 - 15 Oct 01 Mountain Home AFB 2 (HAF DIR)REF

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (11) Mos (15) Das
 TAMS: (01) Yrs (10) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 14 Sep 06.

(Change Discharge to Honorable)

Issue 1: I received fraudulent enlistment charges when I never lied to my recruiter. Since leaving the military I spent several semesters at a community college. I can provide any information needed.

Issue 2: I understand it has been several years but I would like my record cleared from all the allegations brought against me. The situation has been a negative one for me and I have been up front and honest with everyone.

Issue 3: During my semesters at college I was denied any help from my MGIB in which I paid for. And I have had to pay my sign on bonus back and I am about done.

Issue 4: ?Box #9 I don't fully understand. I would like my record reviewed of my discharge. But I don't know if there is an office here in Boise ID please call (208) 340-8771.

Issue 5: ADDITIONAL ISSUES ATTACHED TO BRIEF.

ATCH

1. Application's issues.

24OCT06/day



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 366TH WING (ACC)
MOUNTAIN HOME AIR FORCE BASE, IDAHO

MEMORANDUM FOR A1C [REDACTED] 366 CRS

6 Feb 02

FROM: 366 CRS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Fraudulent Enlistment. The authority for this action is AFPD 36-32, *Military Retirements and Separation*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.15. If my recommendation is approved, your service can be characterized as honorable, general, or under other than honorable conditions (UOTHC). I am recommending your service be characterized as general.
2. On or about 17 Dec 01, your squadron received information from the Department of the Air Force about your security clearance. You answered "No" to a specific question about being arrested. During the investigation for your clearance, investigators discovered this to be false. In fact, you had been arrested for shoplifting. The questionnaire specifically and clearly stated that arrests should be listed even if the arrest had been sealed or otherwise stricken from permanent records. You knew about this arrest as you were filling out the SF 86. As a result, you received a Letter of Reprimand on 27 Dec 01. (See Tab 1, Atch 1). Also, you indicated on your SF 86 that you used marijuana four times. However, in your interview, 1 Nov 00, you indicated you started smoking marijuana from around 1997 or 1998 and last used it Jan 00. You stated that during that time you smoked marijuana on an average of about 1 or 2 times per month.
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 higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, he will also determine how your service will be characterized. If 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 made an appointment for you to consult with the Area Defense Counsel on 6 Feb 02 at 1600 hours in building 512. The number is 828-2675. 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 three workdays of the date of this memorandum unless you request and receive an extension for good cause shown. I will forward 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.

- k. Favorable communications, citations or awards: Air Force Training Ribbon
- l. Derogatory data other than action by court-martial or under Article 15, UCMJ: Six LORs and one LOC.
- m. Medical or other data meriting consideration: None.
- n. The member does not hold an appointment as a Reserve commissioned or warrant officer.

3. Because fraudulent enlistment is the only basis for this discharge under AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.19.1, discharges for fraudulent entry are mandatory unless the commander recommending discharge approves a waiver. After careful consideration of A1C [redacted] record, I am not recommending a waiver. By concealing his pre-service attempted theft of two cases of beer from Ingles Food store he has proven himself without integrity, and therefore unfit for military service. His retention is not in the best interests of the Air Force. Therefore, it is in the Air Force's interest to expedite his departure at this time.

4. According to AFI 36-3208, paragraph 5.21.3, A1C Smith is not eligible for probation and rehabilitation (P&R).

5. A1C Smith's ID card has been withdrawn and will be turned over to the Retention Management Office in the MPF.

6. The exchange, commissary, and SVS offices have been notified of the pending discharge action.

[redacted signature box]

Commander, 366th Component Repair Squadron

7 Tabs:

- 1. Notification Memorandum w/atchs
- 2. Addendum to Notification
- 3. Respondent's Receipt of Notification Memorandum
- 4. Respondent's Statement w/or w/o atchs
- 5. Medical Exam Documentation
- 6. EPRs
- 7. Other Documents