

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AB

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 UOTHC OTHER DENY

X

X

X

X

X

ISSUES
A92.01
A94.05

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 HEARING

HEARING DATE

15 Mar 2007

CASE NUMBER

FD-2006-00461

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: 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, 3E WING, 3RD FLOOR
ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00461

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. The applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received three Article 15s and two Letters of Reprimand for misconduct. The misconduct included driving under the influence of alcohol, reckless endangerment, disorderly conduct, attempting to bring an illegal alien across the United States/ Mexico border, failing to return from Mexico before curfew, having sexual intercourse in the presence of others, committing adultery on divers occasions, speeding and driving with alcohol in his system. 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 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Laughlin AFB, TX on 6 Oct 06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 9 May 84. Enlmt Age: 19 1/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-47, E-61, G-53, M-36. PAFSC: 3P031 - Security Forces Apprentice. DAS: 1 Aug 04.

b. Prior Sv: (1) AFRes 26 Jun 03 - 15 Sep 03 (2 months 20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Sep 03 for 6 yrs. Svd: 03 Yrs 00 Mo 21 Das, all AMS.

b. Grade Status: AB - 24 Oct 05 (Article 15, 24 Oct 05)
Amn - 3 May 05 (Article 15, 03 May 05)
A1C - 31 Oct 03

c. Time Lost: None.

d. Art 15's: (1) 10 Apr 06, Vacation, Laughlin AFB, TX - Article 111. You did, at or near Del Rio, Texas, on or about 5 Feb 06, on Spur 239, operate a vehicle, to wit: a passenger car, in a reckless manner by driving at a speed of approximately 80 miles per hour in a 45 mile per hour zone, while the alcohol concentration in your blood was 0.057 grams of alcohol per 100 milliliters of blood or greater as shown by chemical analysis. Forfeiture of \$617.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 24 Oct 05, Laughlin AFB, TX - Article 134. You did, on or about 21 Feb 05, wrongfully commit an indecent act with Amy I. Castillo by having sexual intercourse with her in the presence of others. You did, on or about 21 Feb 05, wrongfully have sexual intercourse with [REDACTED], a woman not your wife. Reduction to AB. Suspended forfeiture of \$617.00 pay per month for 2 months. Thirty days extra duty and a reprimand. (No appeal) (No mitigation)

(3) 3 May 05, Laughlin AFB, TX - Article 92. You, who knew of your duties at or near Del Rio, Texas, on divers

occasions between on or about 18 Mar 05 and on or about 15 Apr 05, were derelict in the performance of your duties in that you willfully failed to adhere to the current 47th Flying Training Wing Personnel Accountability policy of returning from Mexico before 0130, as it was your duty to do. You, who knew of your duties at or near Del Rio, Texas, on or about 15 Apr 05, were derelict in the performance of your duties in that you willfully failed to follow Federal Regulation 8 USC 1324, by attempting to bring an illegal alien into the United States, as it was your duty to do. Reduction to Airman. Suspended forfeiture of \$300.00 pay per month for 2 months. Restriction to the limits of Laughlin AFB, Texas, for 45 days, 30 days extra duty and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR/UIF, 20 JUN 05 - Adultery.
LOR/UIF, 30 MAR 06 - Driving under the influence of alcohol, reckless endangerment, and disorderly conduct.
- f. CM: None.
- g. Record of SV: 16 Sep 03 - 15 Apr 05 Laughlin AFB 4 (HAF Dir)
16 Apr 05 - 15 Apr 06 Laughlin AFB 2 (Annual)REF
- h. Awards & Decs: AFTR, NDSM, GWOTSM, AFOUA.
- i. Stmt of Sv: TMS: (03) Yrs (03) Mos (11) Das
TAMS: (03) Yrs (00) Mos (21) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 29 Nov 06.
(Change Discharge to Honorable)

Issue 1: I believe it was un(?) sic for me to get a (General) Under Honorable Conditions, when I never did anything wrong while at work. Was never late or disrespectful to my superiors. It was a decision made by a person who only based his decision on my bad record and not on the opinion's (sic) of all my supervisor's (sic). I know as a military member my on duty is 24 hrs a day 7 days a week. But all the problems were personal situations at home.

ATCH

- 1. DD Form 214.

15DEC06/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD 2006-00401

OCT - 3 2006

MEMORANDUM FOR AB: [REDACTED] 47 SFS

FROM: 47 SFS/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 Honorable or General. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

- a. Between on or about 18 March 2005 and on or about 15 April 2005, you failed to return to the United States from Mexico before 0130. Furthermore, you attempted to bring an illegal alien into the United States. This is evidenced by an Article 15, dated 3 May 2005 and the establishment of an Unfavorable Information File (UIF).
- b. Between on or about 30 December 2004 and on or about 6 May 2005, you engaged in inappropriate sexual relations with three different women whom were not your wife. This is evidenced by a Letter of Reprimand, dated 20 June 2005.
- c. On or about 21 February 2005, you had sexual intercourse with a woman whom was not your wife and while in the presence of others. This is evidenced by an Article 15, dated 24 October 2005.
- d. On 5 February 2006, you drove a vehicle in a reckless manner while under the influence of alcohol. This is evidenced by a Letter of Reprimand dated 30 March 2006, and an Article 15 Vacation Action dated 10 April 2006.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or higher authority will decide whether you will be discharged or retained in the United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

3. 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 military defense counsel at 1871 Gentile Street, Building 6119, Lackland Air Force Base Texas (DSN 473-2924) on NIA October 2006, at NIA hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 6 Oct 06 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to 47th Medical Group, 590 Mitchell Blvd on 4 October 2006, at 1530 hours for the examination.

7. 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 at the unit orderly room.

8. Execute the attached acknowledgment and return it to me immediately.

[Redacted Signature Box]

Commander

Attachments:

1. Article 15 (3 May 2005)
2. Letter of Reprimand (20 June 2005)
3. Article 15 (24 October 2005)
4. Letter of Reprimand (30 March 2006)
5. Vacation Action (10 April 2006)
6. Unfavorable Information File Summary
7. Receipt of Notification Memorandum
8. Statement of Recoupment