

JUN 26 1998

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-03552

COUNSEL: None

HEARING DESIRED: No

Applicant requests that his under other than honorable conditions discharge be upgraded to honorable. Applicant's submission is at Exhibit A.

The Air Force Discharge Review Board (AFDRB) denied applicant's request on 18 Nov 97. In accordance with policy, the application was forwarded to this Board for further consideration (Exhibit C). The decision of the AFDRB was forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the AFDRB Brief appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Wayne R. Gracie, Mr. Dana J. Gilmour, and Mr. Allen Beckett considered this application on 23 June 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.

*Wayne R. Gracie*  
WAYNE R. GRACIE  
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. AFDRB Brief
- D. AFBCMR Ltr Forwarding AFDRB Brief

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (Last, First, Middle Initial)</b> [REDACTED]	<b>GRADE</b> [REDACTED]	<b>AFSC/SSA</b> [REDACTED]
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<b>TYPE OF CASE</b>	<b>PERSONAL HEARING</b>	<input checked="" type="checkbox"/>	<b>RECORD REVIEW</b>
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<b>COUNSEL</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b> MR. WILLIE F. TOOMER (Father)	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b> 5765 LOST CREEK DR SUMTER, S C 29154
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MEMBERS SITTING	PART OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

<b>ISSUES</b> A92.35, A94.11	<b>INDEX NUMBER</b> A67.30	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
		1	ORDER APPOINTING THE BOARD
		2	APPLICATION FOR REVIEW OF DISCHARGE
		3	LETTER OF NOTIFICATION
		4	BRIEF OF PERSONNEL FILE
<b>HEARING DATE</b> 97 11 17	<b>CASE NUMBER</b> FD97-00043	<b>COUNSEL'S RELEASE TO THE BOARD</b>	
		<b>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</b>	
		<b>TAPE RECORDING OF PERSONAL APPEARANCE HEARING</b>	

APPLICANT'S ISSUE AND THE BOARD'S PERSONNEL RATIONALE ARE RECORDED IN THE RETRIEVAL FORM (FORM 149)

**REMARKS**

Case heard at Washington, DC.

DD Form 149 submitted. Advise applicant of the decision of the Board and that the case has been forwarded to the AFBCMR for further processing

<b>SIGNATURE OF APPLICANT</b> [REDACTED]	<b>SIGNATURE OF BOARD</b> [REDACTED]
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<b>INDORSEMENT</b>	<b>DATE</b> 97/11/18
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<b>TO:</b> SAFMIBR 660 C Street West, Suite 40 RANDOLPH AFB, TX 78168-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1536 COMMAND DR, 3rd Floor ANDREWS AFB MD 20331-7002
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ADVISE THE APPLICANT, NEXT OF KIN, LEGAL GUARDIAN OR OTHER OF THE BOARD'S DECISION. SEE REMARKS SECTION FOR ADDITIONAL INSTRUCTIONS.

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable.

The applicant **was** offered a personal appearance before the Discharge Review Board but declined to exercise this right.

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

**FINDINGS:** Upgrade of discharge is denied.

**The Board** finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety which would **justify** a change of discharge.

The applicant's issues are listed in the attached brief.

Issue 1. The applicant states that the reason for his discharge was **an isolated** incident in his 24 months of service. The Board recognized the precipitating incident **was**, indeed, isolated, but the **seriousness** of the misconduct, i.e., providing alcoholic beverages to minors and **committing** indecent acts on a minor, outweighs the positive aspects of the applicant's **service**. **His records show** other **administrative and non-judicial actions in his service years** which **were not addressed in his discharge but which indicate other than** exemplary service being rendered. No **inequity** or impropriety **was found in this case upon** which to base an upgrade of discharge.

Issue 2. The applicant states that his commanding officer had a personal grudge against **him** and worked to ensure his discharge under the characterization rendered. **The** incident that prompted his discharge came within a very short time of when the applicant was scheduled for **an** early separation to attend college under a basketball scholarship, and he was **kept** on administrative hold until appropriate action could be taken **for his serious** misconduct. **The** Board found no evidence to support the applicant's contention **as stated** and also found no inequity in the course of events leading to **his** discharge.

**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)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOIHIC Disch fr USAF 95/08/24 UP AFI 36-3208, Ch 6, Para 6.13.1 (Misconduct). Appeals for HON Disch.

2. **BACKGROUND:**

a. **DOB:** 72/07/09. **Enlmt Age:** 20 10/12. **Disch Age:** 23 2/12. **Educ:** (RIP reflects) 60-89 S/H. **AFQT:** Unk. **AQE:** M-43, A-95, G-70, E-67. **PAFSC:** 2E031B - Air Traffic Control Radar Apprentice. **DAS:** 94/04/22.

b. **Prior Sv:** 93/02/11 - 93/06/02 (3 Mos 22 Das) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. **Enld as A1C 93/06/03** for 4 yrs. **Svd:** 2 Yrs 2 Mos 21 Das, all AMS.

b. **Grade Status:** NONE

c. **Time Lost:** NONE

d. **Art 15's:** (1) 95/03/22, Altus AFB, in viol of UCMJ, Art 91, You having received a lawful order from SSgt L--- D--- S--- a noncommissioned officer, then known by you to be a noncommissioned officer, to not drink **any** further alcoholic beverages while on standby duty, an order which it was your duty to obey, o/a 95/03/10, willfully disobey the same. (Oral/written mitigation). **Rdn AMN, Forf \$223 pay (Susp until 95/09/21), & 5 das extra dy.** (No appeal).

(2) 95/07/10, at or near Altus, Oklahoma, in viol of UCMJ, Art 134, You did, o/a 95/06/13, commit an indecent act upon the body of C--- M---, a female under 16 yrs of age, not your wife, by fondling her and placing your hands upon her body and private parts, with the intent to gratify your sexual desires. You did, **supply** alcohol to a fifteen yrs old female and this conduct was of a nature to bring discredit upon the armed forces. (Written mitigation). No punishment. (No appeal).

e. **CM:** NONE

Atch 1  
(EX 4)

f. Record of Sv: 93/06/03 95/02/02 Altus AFB 3 (Initial)

g. Awards & Decs: AFTR, & NDSM

h. Stmt of Sv: TMS: 2 Yrs 6 Mos 13 Das  
TAMS: 2 Yrs 2 Mos 21 Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 96/11/13.

(Change Discharge to Honorable)

ISSUE 1: My undesirable discharge was inequitable because it was based on one isolated incident in 24 months of service with no other severe adverse actions.

ISSUE 2: My undesirable discharge was inequitable because my commanding officer had a personal grudge against me; since I was approved for early separation to go back to school on a basketball scholarship.

ATCH

Request & Authorization for Separation AF Fm 100

97/06/24/drh