

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE	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	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.21	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD
		1 ORN. APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
HEARING DATE 23 OCT 02	CASE NUMBER FD2002-0286	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

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

REMARKS
Case heard at Washington, D.C.

Advise applicant of the decision of the Board, the right to a personal appearance, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 23 OCT 02
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TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0286

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 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: The applicant does not contest the discharge; he states that he would like to receive his G.I. Bill benefits. The record indicates the applicant three Article 15's for driving while intoxicated, failure to obey a direct order to not operate a vehicle on base, twice, the second offence resulted in a Vacation of a suspended reduction in grade. The applicant was also decertified on previously completed on-the-job training tasks because of numerous mistakes and repeated errors. 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, dated 10 July 2002) 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 that would warrant an upgrade. 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 or change the reason for 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 AMN)

(MISSING DOCUMENTS)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/07/13 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 80/09/30. Enlmt Age: 19 7/12. Disch Age: 20 9/12. Educ: HS DIPL. AFQT: N/A. A-65, E-74, G-53, M-62. PAFSC: 4P031 - Pharmacy Apprentice. DAS: 01/01/25.

b. Prior Sv: (1) AFRes 00/05/19 - 00/06/27 (1 month 9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/06/28 for 4 yrs. Svd: 01 Yrs 00 Mo 16 Das, all AMS.

b. Grade Status: AB - 01/03/16 (Article 15, Vacation, 01/05/21)
 AMN - 00/12/28

c. Time Lost: none.

d. Art 15's: (1) 01/05/29, Patrick AFB, FL - Article 92. You, having knowledge of a lawful order issued by Colonel -----, Support Group Commander, to wit: not to operate any type of vehicle (government or civilian) within the jurisdiction of the 45th Space Wing for one year, dated 10 Mar 01, an order which it was your duty to obey, did, on or about 13 May 01, fail to obey the same by wrongfully operating a maroon -----, Texas tag #-----. Restriction to Patrick AFB, FL for 30 days, 15 days extra duty, forfeiture of \$521.00 pay per month for 2 months (suspended until 28 Nov 01), and a reprimand. (No appeal) (No mitigation)

(2) 01/05/21, Vacation, Patrick AFB, FL - Article 92. You, having knowledge of a lawful order issued by Colonel -----, Support Group Commander, to wit: not to operate any type of vehicle (government or civilian) within the jurisdiction of the Space Wing for one year, dated 12 Mar 01, an order which it was your duty to obey, did, on or about 13 May 01, fail to obey the same by wrongfully operating a maroon -----, Texas tag #-----. Reduction to AB. (No appeal) (No mitigation)

(3) 01/03/16, Patrick AFB, FL - Article 111. You did, on or about 10 Mar 01, in the parking lot adjacent to Building 503, physically control a vehicle, to wit: a red -----, Texas tag #-----, while the alcohol concentration in your breath was 1.10 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. Suspended reduction to AB, 30 days restriction, forfeiture of \$300.00 pay, and a reprimand. (No appeal) (No mitigation)

e. Additional: 12 JUN 01 - Desertification of previously completed on-the-job training tasks because of numerous mistakes and repeated errors.

f. CM: none.

g. Record of SV: none.

(Discharged from Patrick AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (01) Mos (25) Das
TAMS: (01) Yrs (00) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/06/23.
(Change Discharge to Honorable)

Issue 1: My name is -----, and I would like to upgrade my discharge of July 13, 2001 from a general under honorable conditions to honorable.

I have been attending college full time for the past year and I am pursuing a degree in business management. I am presently employed at -----'s restaurant, and I have been promoted to headwaiter. I've been at -----'s for a full year, and the managers are sending recommendations regarding my character and service.

During my active military service, I paid off my GI Bill. I desperately need those benefits for school tuition and books. I am working hard, paying rent, car insurance, health insurance, and living on my own, and it is very difficult to make ends meet. I am seeking this avenue to cover costs. Thank you for attention to this matter. Have a good day.

ATCH

1. Applicant's Issues.

02/08/21/ia

MEMORANDUM FOR AB [REDACTED]

FROM: 45 MDSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Unsatisfactory Performance and Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.26.3 and paragraph 5.49. If you are discharged, your service may be characterized as Honorable or Under Honorable Conditions (general). I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reasons for this action are the following:

a. On 12 Jun 01, you were decertified in previously completed on-the-job training tasks. This decertification was due to numerous mistakes and repeated errors, which culminated in your removal from all dispensing functions.

b. You did, on or about 10 March 2001, in the parking lot adjacent to Building 503, physically control a vehicle, to wit: a red 1994 Honda, Texas tag [REDACTED], while the alcohol concentration in your breath was 0.10 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. For this offense, you received nonjudicial punishment dated 16 Mar 01.

c. You, having knowledge of a lawful order issued by Colonel [REDACTED] Support Group Commander, to wit: not to operate any type of vehicle (government or civilian) within the jurisdiction of the [REDACTED] Space Wing for one year, dated 12 March 2001, an order which it was your duty to obey, did, at or near Patrick Air Force Base, Florida, on or about 13 May 2001, fail to obey the same by wrongfully operating a red Honda, Texas tag [REDACTED]. For this offense, your previously suspended nonjudicial punishment was vacated, and you received nonjudicial punishment dated 29 May 01.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Courts-Martial jurisdiction, or a higher authority, will decide whether you will be discharged or retained in the 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.

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 with Capt [REDACTED] Area Defense Counsel, Patrick AFB, Bldg 423, Suite N-115, phone 4-4423, at _____ hrs on _____ 2001. 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 by _____ 2001, unless you request and receive an extension for good cause shown. I will send any submissions 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 report to the 45th Medical Group, Physical Exam Section, Patrick AFB, at _____ hrs on _____ 2001 for the examination.

8. 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 office of the Area Defense Counsel, Bldg 423, Suite N-115.

[REDACTED] Lt Col, USAF
Commander

Attachments:

1. Memo for Record, dtd 12 Jun 01
2. AF Form 3070, dtd 29 May 01
3. AF Form 366, dtd 21 May 01
4. AF Form 3070, dtd 16 Mar 01