

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>		GRADE  AB	AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>			
TYPE	X PERSONAL APPEARANCE		RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO	THE AMERICAN LEGION				
X						
MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
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						X
ISSUES A92.22 A94.06		INDEX NUMBER A67.10 A92.24				
HEARING DATE  13 MARCH 2002		CASE NUMBER FD-2002-0293				
		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				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.  + Secretarial Authority  * Upgrade of RE Code						
SIGNATURE OF RECORDER <div style="background-color: black; width: 100%; height: 4em;"></div>		SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 4em;"></div>				
INDORSEMENT		DATE: APR 2 2003				
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 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002				

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD2002-0120**

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable and to change the reason for the discharge.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, Maryland on 13 March 2003.

The following exhibits were submitted at the hearing:

Exhibit #6: Two Letters of Recommendation

Exhibit #7: College Transcript

Exhibit #8: AF Form 899 (PCS Order)

Exhibit #9: 2 Letters of Commendation (18 March 2000 and 9 August 2000)

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

**FINDINGS:** The discharge is upgrade to Honorable and the reason for discharge is changed to Secretarial Authority. Change in RE code is approved.

**Issues.** The applicant received a General Discharge on 21 May 2001 for Misconduct – Minor Disciplinary Infractions. The applicant committed a series of minor infractions over the course of his 1 year and 2 months of military service, beginning with his use of a codeine-containing medication, which was not prescribed to him, but which he was offered and accepted for relief of a headache. The applicant received a waiver of this offense and was retained on active duty. The next significant offense involved the member's unauthorized absence from his assigned dormitory and his underage consumption of alcoholic beverages, while staying at an off-base motel. For this offense the applicant received an Article-15 and was remanded to Correctional Custody. The applicant does not deny either of the aforementioned offenses, but presented testimony that he only wanted to spend time with his girlfriend prior to his upcoming PCS to Kadena AB, Japan. It is the occurrence of an incident while the applicant was in Correctional Custody, which ultimately resulted in his discharge, and upon which the DRB based its decision to grant the applicant relief. The applicant was given his second Article-15 for assaulting a fellow "correctee" during an indoctrination of "newbies", a term for newcomers to the correctional facility. The applicant denies inflicting harm to anyone, and that he was only trying to prevent an unintended injury by attempting to remove a sharp object from a fellow "correctee's" hand. After making an unsuccessful attempt, the applicant states that he retreated and was no longer involved in the indoctrination activities. The Board opined the indoctrination, in which the applicant and several other members participated, was likely known to supervisory authorities and considered it plausible the applicant had no intent to do personal harm by attempting to remove a sharp object (pen) from a fellow "correctee's" hand. The DRB considered the signed statements from the several witnesses (also participants), the almost universal inconsistencies in each version of who initiated or was directly involved in the assaulting behavior, some of which reflected the applicant was far-removed from inflicting any trauma, the applicant's post-service successes in college, and the position of high trust and responsibility he has attained in the food service industry, in granting relief to the applicant.

**CONCLUSIONS:** The Discharge Review Board (DRB) 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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of the

applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable and Secretarial Authority under the provisions of Title 10, USC.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

[REDACTED]  
(Former AB) (HGH AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/05/21 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, to Change the RE Code, and Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 81/08/07. Enlmt Age: 18 7/12. Disch Age: 20 3/12. Educ: HS DIPL. AFQT: N/A. A-81, E-76, G-80, M-82. PAFSC: 2A616 - Aircraft Electronics & Environmental Systems Helper. DAS: 00/05/08.

b. Prior Sv: (1) AFRes 00/03/08 - 00/03/21 (14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/03/22 for 6 yrs. Svd: 01 Yrs 02 Mo 00 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: (1) 07/04/03, Sheppard AFB, TX - Article 128. You did, on or about 16 Feb 01, assault [REDACTED] by grabbing him with your hands. Forfeiture of \$250.00 pay per month for 2 months, restriction to the limits of Sheppard AFB for 30 days, and a reprimand. (No appeal) (No mitigation)

(2) 01/02/07, Sheppard AFB, TX - Article 92. You did, on divers occasions between on or about 6 Jan 01 and on or about 10 Jan 01, violate a lawful general instruction, to wit: paragraph 2.1.8, Sheppard AFB Instruction 36-2902, dated 15 Oct 97, by wrongfully entering a local area motel. You did, on or about 10 Jan 01, violate a lawful general instruction, to wit: paragraph 2.1.11, Sheppard AFB Instruction 36-2902, dated 15 Oct 97, by wrongfully consuming alcoholic beverages while under the legal drinking age of 21. You did, on or about 10 Jan 01, violate a lawful general instruction, to wit: paragraph 7.3.4, Sheppard AFB Instruction 36-2902, dated 15 Oct 97, by wrongfully failing to return to and remain in your assigned dormitory room from 2200 to 0400. Forfeiture of \$250.00 pay per month for 2 months, and 30 days correctional custody. (No appeal) (No mitigation)

e. Additional: LOC, 30 AUG 00 - Failure to go.  
LOR, 12 SEP 00 - Use of medication prescribed to someone  
Else.

f. CM: None.

g. Record of SV: None.

(Discharged from Sheppard AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (02) Mos (14) Das  
TAMS: (01) Yrs (02) Mos (00) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/05/17.

(Change Discharge to Honorable, Change the RE Code, and Change the Reason and Authority for Discharge)

Issue 1: My goal for many years was to be an aviator in the military and I still wish to achieve this goal. Unfortunately, my present situation precludes me from obtaining this goal. I was a highly motivated airman and I enjoyed the time that I spent in the service. I highly regret the mistakes that were made while I was in service. The consequences have most definitely been a huge learning experience. I never wished to be released from the military and I also never meant to be in these situations. But I can say that I have learned and matured over the past year of being a civilian and I still have high hopes of reentering the military and taking my lessons learned with me.

**ATCH**

1. VA Form 21-22, 17 May 02.
2. Congressional Correspondence.
3. DD Form 214.

02/10/11/ia



DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND

15 May 01

MEMORANDUM FOR 782 TRG/CC

FROM: 82 TRW/JAC

SUBJECT: Legal Review, Recommendation for Discharge — [REDACTED]

1. We have reviewed this discharge case file and find it legally sufficient to support discharge in accordance with the provisions of AFI 36-3208. Based upon our review, we conclude that the incidents documented within this file sufficiently support [REDACTED] discharge from the Air Force. We concur with the 364 TRS/CC that [REDACTED] should be discharged with an under honorable conditions (general) discharge in accordance with AFI 36-3208, paragraph 5.49 (minor disciplinary infractions).

2. Basis for Action. On 7 May 01, the 364 TRS/CC notified [REDACTED] that he was recommending that [REDACTED] be discharged from the service due to his misconduct.

3. Evidence for the Commander. The preponderance of the evidence in the case file supporting the commander's recommendation consists of the following:

a. The respondent did, at or near Sheppard AFB TX, on or about 16 Feb 01, assault [REDACTED] by grabbing him with his hands. For this misconduct, he received an Article 15 on 3 Apr 01.

b. The respondent did, at or near Sheppard AFB TX, on divers occasions, on or about 6 Jan 01 and on or about 10 Jan 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.8, dated 15 Oct 97, by wrongfully entering a local area motel. For this misconduct and subparagraphs "c" and "d" below, he received an Article 15 on 7 Feb 01.

c. The respondent did, at or near Sheppard AFB TX, on or about 10 Jan 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.11, dated 15 Oct 97, by wrongfully consuming alcoholic beverages while under the legal drinking age of 21.

d. The respondent did, at or near Sheppard AFB TX, on or about 10 Jan 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 7.3.4, dated 15 Oct 97, by wrongfully failing to return to and remain in his assigned dormitory room from 2200 to 0400.

e. The respondent did, at or near Sheppard AFB TX, on or about 30 Aug 00, fail to go at the time prescribed to his appointed place of duty, to wit: scheduled appointment with the Substance Abuse Clinic. For this misconduct, he received a Letter of Counseling on 30 Aug 00.

4. Additional Information. The respondent is 19 years old, began his present enlistment on 22 Mar 00, and was assigned to his unit on 8 May 00. His ASVAB scores are as follows: A - 81, E - 76, G - 80, and M - 82. The respondent is entitled to wear the Air Force Training Ribbon.

[REDACTED]

He has waived his right to consult with counsel and has waived his right to submit statements for your consideration.

5. We note an administrative irregularity in that the Notification Memorandum is dated 7 May 01 but was not acknowledged till 8 May 01. This minor administrative error is of no consequence in light of [REDACTED] written waiver to seek counsel or submit statements. We note no other administrative errors and concur with the commander for an under honorable conditions (general) discharge.

6. In accordance with AFI 36-3208, your options are to:

- a. Direct [REDACTED] retention;
- b. Suspend an under honorable conditions (general) discharge and recommend Probation and Rehabilitation;
- c. Direct his discharge with an under honorable conditions (general) discharge; or
- d. Recommend that [REDACTED] be discharged with an honorable discharge. If you determine an honorable discharge is appropriate, this file must be forwarded to 2 AF/CC since only a General Court-Martial Convening Authority may approve an honorable discharge characterization when the basis for discharge is misconduct (AFI 36-3208, paragraph 5.48.4).

7. If you have any questions regarding this matter, please contact [REDACTED] at ext 6-7186.

[REDACTED]  
Major, USAF  
Deputy Staff Judge Advocate

Attachment:  
Case File

[REDACTED]

DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND

10 MAY 2001

MEMORANDUM FOR [REDACTED] 364 TRS

FROM: 364 TRS/CSS

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will 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:

a. You did, at or near Sheppard AFB TX, on or about 16 Feb 01, assault [REDACTED] by grabbing him with your hands. For this infraction you received an Article 15 on 03 Apr 01.

b. You did, at or near Sheppard AFB TX, on divers occasions between on or about 6 Jan 01 and on or about 10 Jan 01, violate a lawful general instruction, to wit: paragraph 2.1.8, Sheppard Air Force Base Instruction (SAFBI) 36-2902, dated 15 Oct 97, by wrongfully entering a local area motel. For this infraction and subparagraphs "c" and "d" below, you received an Article 15 on 07 Feb 01.

c. You did, at or near Sheppard AFB TX, on or about 10 Jan 01, violate a lawful general instruction, to wit: paragraph 2.1.11, SAFBI 36-2902, dated 15 Oct 97, by wrongfully consuming alcoholic beverages while under the legal drinking age of 21.


d. You did, at or near Sheppard AFB TX, on or about 10 Jan 01, violate a lawful general instruction, to wit: paragraph 7.3.4, SAFBI 36-2902, dated 15 Oct 97, by wrongfully failing to return to and remain in your assigned dormitory room from 2200 to 0400.

e. You did, at or near Sheppard AFB TX, on or about 30 Aug 00, fail to go at the time prescribed to your appointed place of duty, to wit: scheduled appointment with the Substance Abuse Clinic. For this infraction you received a Letter of Counseling (LOC) on 30 Aug 00.



Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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 and will probably be denied enlistment in any component of the Armed Forces.

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 [REDACTED] Area Defense Counsel, at Bldg 1638, Room 110 on 8 May 01 at 0730 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 10 May 01 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 were scheduled for a medical examination on 18 Apr 01, 0930 hours.
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 in the 364 TRS commander's support staff office.
8. Execute the attached acknowledgment and return it to me immediately.

  
[REDACTED] Lt Col, USAF  
Commander

Attachments: (listed on next page),

1. AF Form 3070, 03 Apr 01
2. Response Article 15, 29 Mar 01
3. AF Form 3545, 01-02-261
4. AF Form 1168, [REDACTED], 18 Feb 01
5. AF Form 1168, [REDACTED], 16 Feb 01
6. AF Form 1168, [REDACTED], 19 Feb 01
7. AF Form 1168, [REDACTED], 16 Feb 01
8. AF Form 1168, [REDACTED], 17 Feb 01
9. AF Form 1168, [REDACTED], 17 Feb 01
10. AF Form 1168, [REDACTED], 16 Feb 01
11. AF Form 1168, [REDACTED], 17 Feb 01
12. AF Form 1168, [REDACTED], 16 Feb 01
13. AF Form 1168, [REDACTED], 17 Feb 01
14. AF Form 1168, [REDACTED], 16 Feb 01
15. AF Form 1168, [REDACTED], 16 Feb 01
16. AF Form 1168, [REDACTED], 17 Feb 01
17. AF Form 1168, [REDACTED], 18 Feb 01
18. AF Form 1168, [REDACTED], 16 Feb 01
19. AF Form 1168, [REDACTED], 18 Feb 01
20. AF Form 1168, [REDACTED], 16 Feb 01
21. AF Form 1168, [REDACTED], 18 Feb 01
22. AF Form 1168, [REDACTED], 16 Feb 01
23. AF Form 1168, [REDACTED], 18 Feb 01
24. DD Form 629, [REDACTED], 17 Feb 01
25. DD Form 629, [REDACTED], 17 Feb 01
26. DD Form 629, [REDACTED], 17 Feb 01
27. DD Form 629, [REDACTED], 17 Feb 01
28. DD Form 629, [REDACTED], 18 Feb 01
29. DD Form 629, [REDACTED], 18 Feb 01
30. DD Form 629, [REDACTED], 18 Feb 01
31. DD Form 629, [REDACTED], 18 Feb 01
32. DD Form 629, [REDACTED], 18 Feb 01
33. 82 SFS/CC Memo, [REDACTED], 17 Feb 01
34. 82 SFS/CC Memo, [REDACTED], 17 Feb 01
35. 82 SFS/CC Memo, [REDACTED], 17 Feb 01
36. 82 SFS/CC Memo, [REDACTED], 18 Feb 01
37. 82 SFS/CC Memo, [REDACTED], 18 Feb 01
38. 82 SFS/CC Memo, [REDACTED], 18 Feb 01
39. 82 SFS/CC Memo, [REDACTED], 18 Feb 01
40. 82 SFS/CC Memo, [REDACTED], 18 Feb 01
41. 82 SFS/CC Memo, [REDACTED], 18 Feb 01
42. AF Form 3070, 07 Feb 01
43. 364 TRS/CC, Memo, undated
44. AF Form 1168, [REDACTED], 11 Jan 01

- 45. AF Form 1168, [REDACTED], 12 Jan 01
- 46. AF Form 1168, [REDACTED], 11 Jan 01
- 47. Red Roof Inn Reciept, 06 Jan 01
- 48. Red Roof Inn Reciept, 10 Jan 01
- 49. LOC, 30 Aug 00
- 50. 2AF/CC Memo, 01 Dec 00
- 51. LOR, 12 Sep 00
- 52. 364 TRS/CC, 23 Oct 00 w/ 9 attaches
- 53. Student Training Report, 00028
- 54. LAFB Form 205, 02 May 00
- 55. Airman's Receipt of Notification [REDACTED]