

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE SRA	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

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

ISSUES A94.05	INDEX NUMBER A67.50	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 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 with/without counsel, and the right to submit an application to the AFBCMR.

SIGNATURE OF BOARD MEMBER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 7 JAN 03
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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

FD02-0313

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.

ISSUE: Applicant does not contest his discharge. He states that his misconduct occurred off duty and away from the base. The record indicates that the applicant was arrested by local police for driving under the influence of alcohol twice. He received a Letter of Reprimand after the first arrest and sent to the ADAPT Program. He finished the program and then was arrested again for the same thing and received another Letter of Reprimand. Since the applicant was unwilling to respond to past rehabilitative efforts and there was no evidence to suggest that further attempts to correct his behavior would have been effective in this case, he was discharged. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

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 SRA) (HGH SRA)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/10/05 UP AFI 36-3208, para 5.50.1 (Pattern of Misconduct - Discreditable Involvement with Civil Authorities. Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 76/03/10. Enlmt Age: 22 8/12. Disch Age: 25 6/12. Educ: HS DIPL. AFQT: N/A. A-85, E-44, G-62, M-20. PAFSC: 3P051 - Security Journeyman. DAS: 99/07/19.

b. Prior Sv: (1) AFRes 98/11/25 - 99/02/24 (3 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 99/02/25 for 4 yrs. Svd: 02 Yrs 07 Mos 11 Das, of which AMS is 02 Yrs 07 months 09 days (excluding 2 days lost time).

b. Grade Status: SRA - 01/06/27

c. Time Lost: (1) 01 May 00 thru 02 May 00 - 1 day.
(2) 08 May 00 thru 09 May 00 - 1 day.

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

e. Additional: DUI, 24 MAR 00.

f. CM: none.

g. Record of SV: 99/02/25 - 00/07/15 Luke AFB 4 (HAF Dir)

(Discharged from Luke AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (02) Yrs (10) Mos (09) Das
TAMS: (02) Yrs (07) Mos (09) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/15.
(Change Discharge to Honorable)

Issue 1: I strongly believe that my discharge should be upgraded. I did get in trouble twice in my career. It was off duty and away from the base. I felt I did my job to the best of my ability and I took a lot of respect and pride in what I did. I blame only myself for getting discharged but I feel as

though I earned an honorable discharge. I wish to receive my school benefits yet I no (sic) that unless my discharge is upgraded I won't receive them. I think I would have been an assett (sic) to the Air Force if they would have allowed me to stay in, but now the only way I can keep my head up and move on with my life is to retain the Montgomery G.I. Bill for school. I would very much like to earn a degree and join a different branch of the military and become an officer in the future. I wanted to thank you for the opportunity to submit the application and please consider my appeal for a change in discharge.

ATCH

1. Applicant Note to the Discharge Review Board.

02/11/05/ia



DEPARTMENT OF THE AIR FORCE
56th Fighter Wing (AETC)
Luke Air Force Base Arizona

FD 2002-0313

28 SEP 2001

MEMORANDUM FOR 56 FW/CC

FROM: 56 FW/JA

SUBJECT: Legal Review of Administrative Discharge - [REDACTED]

1. ACTION: This case is before you for review and action in your capacity as the separation authority. The 56 SFS/CC recommends the Respondent be separated from the United States Air Force with a general discharge without probation and rehabilitation pursuant to AFI 36-3208, paragraph 5.50.1 for a Pattern of Misconduct, specifically for Discreditable Involvement with Civil Authorities. I concur.

2. BACKGROUND: The Respondent is 25 years old and has been on active duty in the United States Air Force for approximately 2 years and 7 months. He is currently serving a 4 year enlistment. His AQE scores are: Admin - 85; Elect - 44; Gen - 62; and Mech -20. The Respondent's awards and decorations include the Outstanding Unit Award and the Air Force Training Ribbon.

3. FACTS: The following actions from the Respondent's current enlistment establish a pattern of misconduct under paragraph 5.50.1:

a. On 24 Mar 01, the Respondent was arrested by the Tempe, Arizona, Police Department for driving under the influence of alcohol. His Breathalyzer test indicated a blood alcohol content of .187, which is above the legal limit for operating a vehicle. He received an LOR and an Unfavorable Information File (UIF).

b. On 4 Aug 01, the Respondent was arrested by the Glendale Police Department for driving while intoxicated. He received an LOR as evidenced by a Glendale Police Department Report, dated 4 Aug 01. His punishment included a Letter of Reprimand and a UIF entry.

4. RESPONDENT'S MATTERS: The Respondent has met with military defense counsel and submitted a written statement for your consideration. The Respondent apologizes for his actions and accepts full responsibility for his behavior. He asks that you retain him in the Air Force and is willing to do whatever necessary to remain on active duty. He asks that if he is discharged that his term of service be characterized as honorable to allow him to retain his Montgomery G.I. Bill benefits.

--Attorney Work Product--

This work product has been prepared by an attorney in the course of performing legal duties on behalf of a client, and is not to be provided to anyone outside the Air Force without approval of the originator or higher authority. It is exempt from disclosure under the Freedom of Information Act under 5 U.S.C. §552(b)(5) and protected from release under FRCP 26(b)(3).

5. CHARACTERIZATION OF DISCHARGE: The Respondent's commander recommends a general service characterization for [REDACTED]'s term of service. A general (under honorable conditions) characterization of service is appropriate if the airman's service has been honest and faithful, and if significant negative aspects of the airman's conduct or duty performance outweigh the positive aspects of his record. The evidence in this case clearly supports the commander's recommendation. The Respondent has had two serious off base driving while intoxicated incidents and received an LOR and a UIF entry in both instances. The negative aspects outweigh the positive aspects of his service record; therefore, a general discharge is appropriate.

6. PROBATION AND REHABILITATION (P&R): P&R, in accordance with AFI 36-3208, Chapter 7, would be inappropriate in this case and is clearly contrary to the best interests of good order and discipline. [REDACTED] has been unwilling or unable to respond to past rehabilitative efforts and there is no evidence to suggest that further attempts to correct his behavior would be effective in his case.

7. LEGAL SUFFICIENCY: There is a sufficient factual basis to support this discharge. Further, this file has been prepared in substantial compliance with the provisions of AFI 36-3208. Finally, the Respondent has been notified of this discharge, has met with the Area Defense Counsel and elected to make a written presentation for your consideration. For these reasons, we find this case file legally sufficient.

8. OPTIONS: As the separation authority you have the following options:

- a. Retain the Respondent; or
- b. Separate the Respondent with a general discharge, with or without probation and rehabilitation; or
- c. Forward the case to 19 AF/CC recommending the Respondent receive an honorable discharge, with or without probation and rehabilitation; or
- d. If you feel an under other than honorable conditions discharge is appropriate, return the package to the squadron for processing in accordance with administrative discharge procedures.

9. RECOMMENDATION: Based on the foregoing, I recommend you separate the Respondent from the United States Air Force with a general discharge without probation and rehabilitation.

[REDACTED]
[REDACTED] USAF
Staff Judge Advocate