

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 UOTHC	<input checked="" type="checkbox"/> PERSONAL APPEARANCE	RECORD REVIEW
COUNSEL YES NO X	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL

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

ISSUES A94.06, A01.39, A01.43	INDEX NUMBER A 64.00	EXHIBITS SUBMITTED TO THE BOARD	
		1	ORDER APPOINTING THE BOARD
		2	APPLICATION FOR REVIEW OF DISCHARGE
		3	LETTER OF NOTIFICATION
HEARING DATE 050603	CASE NUMBER FD2002-0486	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 Board's decision.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 050603
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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

FD2002-0486

GENERAL: The applicant appeals for an upgrade of his Under Other Than Honorable Conditions discharge to general. The applicant appeared and testified before the Board without counsel, at Andrews AFB, MD, on May 6, 2003.

The applicant submitted character statements from MSgt [REDACTED], MSgt [REDACTED], and TSgt [REDACTED].

The attached brief contains the available pertinent data on the applicant, the factors leading to the discharge, and the issues he submitted for review.

FINDINGS: The applicant's request to change the characterization of his discharge to general is granted.

Issue: The applicant contends that his overall service record is more deserving of a general discharge rather than the Under Other Than Honorable Conditions discharge he received. The applicant's record contains numerous counselings and a reprimand for operating his car at excessive speeds. He was apprehended by civilian authorities for driving 95 miles per hour and cited for reckless driving. He was later convicted of that offense and directed to attend a court-ordered traffic school. When he failed to attend the school, local authorities incarcerated him for 21 days. Base authorities apprehended the applicant on two occasions for traveling at excessive speeds on base. These infractions led to additional adverse action and the loss of his base driving privileges. Despite receiving an order not to drive on base, base police apprehended the applicant driving his car on base. For this, he received nonjudicial punishment. Other misconduct in the file included evidence the respondent failed to meet his financial obligations. He wrote a worthless check, had his car repossessed, and fell behind in his Delayed Payment Program account with the Base Exchange. Lastly, the respondent received a second Article 15 for removing stereo equipment he had installed from the car which had been repossessed. The respondent removed the stereo equipment at night and without permission. While not condoning his misconduct, the Board also noted the counselings he received were typical of the type received by first-term airmen. The Board noted the applicant believed he was reclaiming his own property from the repossessed car and he re-installed the original radio. In the Board's view, these facts mitigated what they would otherwise have considered to be a very serious offense. Finally, the Board observed the respondent supplied three character references from senior noncommissioned officers which praised the respondent's service. After a thorough and complete consideration of the information provided by the applicant, the applicant's compelling testimony, and the information contained in the record, the DRB concluded there were sufficient extenuating and mitigating circumstances to substantiate an upgrade to the applicant's discharge to general. The Board does not believe his record justifies a further upgrade to his service.

None of the applicant's remaining issues will be addressed as their resolution in the applicant's favor would not result in greater relief than is being afforded by the Board.

The Board also reviewed and considered the applicant's entire service record before making a decision.

CONCLUSIONS: The Board concludes the respondent's discharge characterization should be upgraded from Under Other Than Honorable Conditions to general.

Attachment:
Examiner's Brief

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

FD2002-00486A

(Former AB) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a UOTH Dish fr USAF 24 Mar 99 UP AFI 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for General Discharge.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 18 Jul 00.

b. The AFDRB reviewed case on 6 Sep 00 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 27 Oct 02.
(Change Discharge to General)

NO ISSUES SUBMITTED.

Atch

None.

13FEB03/ai

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

(Former AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 99/03/24 UP AFI 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 78/04/04. Enlmt Age: 18 0/12. Disch Age: 20 11/12. Educ:HS DIPL. AFQT: N/A. A-83, E-77, G-68, M-63. PAFSC: 2A753 - Structural Maintenance. DAS: 97/01/01.

b. Prior Sv: AFRes 96/04/19 - 96/07/01 (2 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 96/07/02 for 4 yrs. Svd: 2 Yrs 8 Mo 23 Das, of which AMS is 2 yrs 8 mos 2 das (excludes 21 days lost time).

b. Grade Status: AB - 98/12/30 (Article 15, 98/12/30)
A1C - 97/11/02
AMN - 97/01/02

c. Time Lost: 97/09/30 through 97/10/21 (21 days).

d. Art 15's: (1) 99/01/22, Hurlburt Field, FL - Article 92. You, having knowledge of a lawful order issued by Col -----, to refrain from driving a vehicle on Hurlburt Field, Florida and all other military installations for a two-year period, an order which it was your duty to obey, did, o/a 28 Dec 98, fail to obey the same by wrongfully driving a vehicle while on Hurlburt Field, Florida. Forfeiture of \$250.00 pay per month for 2 months, and 45 days extra duty. (No appeal)
(No mitigation)

(2) 98/12/30, Eglin AFB, FL - Article 121. You did, o/a 28 Oct 98, steal a ----- compact disc player and receiver, one ----- power amplifier, two ----- bridgeable amplifiers, two ----- speakers, of a value of about \$1,600.00, the property of the ----- Credit Union. Rdn to AB, 14 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOC, 07 MAR 97 - Speeding ticket.
LOC, 07 MAR 97 - Bad check.
LOC, 28 APR 97 - Speeding ticket.

LOR, 04 NOV 97 - Civilian charge of contempt of court.
LOR, 01 SEP 98 - Driving with a suspended license.

f. CM: none.

g. Record of SV: 96/07/02 98/03/23 Hurlburt Field 2 (Initial)
(Discharged from Hurlburt Field)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (10) Mos (15) Das
TAMS: (2) Yrs (8) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/06/12.
(Change Discharge to General)

NO ISSUES SUBMITTED.

ATCH
none.

00/07/18/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 16th SPECIAL OPERATIONS WING (AFSOC)

1 Jul 99

MEMORANDUM FOR AB [redacted], FR [redacted], 16 EMS

FROM: 16 EMS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct, more specifically for Discreditable Involvement with Military or Civilian Authorities, according to AFD 36-32 and AFI 36-3208, under the provisions of section H, paragraph 5.50.1. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are based on the following:

a. On 6 Mar 97, you received a speeding ticket off base for driving 95 M.P.H., for which you received a Letter of Counseling (LOC), dated 7 Mar 97.

b. On 7 Mar 97, you made and uttered a check to the 16 EMS squadron, and did fail to maintain sufficient funds to cover the said check, for which you received a Letter of Counseling (LOC), dated 7 Mar 97.

c. On 19 Apr 97, you received a speeding ticket on base for driving 40 M.P.H. in a 25 M.P.H. zone, for which you received a Letter of Counseling (LOC), dated 28 Apr 97.

d. On 30 Sep 97, you were charged by the Okaloosa County Courts for contempt of court by failing to complete a driving class as directed, for which you received a Letter of Reprimand (LOR), dated 4 Nov 97.

e. On 15 Aug 98, you were arrested, detained and cited for driving on a suspended license and driving 60 M.P.H. in a 35 M.P.H. zone by the Hurlburt Field Security Police, for which you received a Letter of Reprimand (LOR), dated 1 Sep 98, and the establishment of an Unfavorable² Information File (UIF).

f. On 28 Oct 98, you stole a Kenwood compact disc player and receiver, one Kenwood power amplifier, two Prestige bridgeable amplifiers, and two Pioneer speakers, all of a value of about \$1,600.00, the property of the Eglin Federal Credit Union, for which you received an Article 15, dated 4 Jan 99.

g. On 28 Dec 98, you failed to obey a lawful order issued to you by Colonel [redacted] [redacted], for which you received an Article 15, dated 22 Jan 99.

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) discharge. I am recommending that you receive an UOTHC discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in any component of the armed forces.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your own rights.

5. You have been scheduled for a medical examination. You must report to the Hurlburt Clinic, at 0920 hours on 3 FEB 99 for the examination.

6. Military legal counsel, Captain Sumner, Area Defense Counsel, Hurlburt Field, FL, 884-5216/5217, has been obtained to assist you. An appointment has been scheduled for you to consult her on 2 FEB 99 at 1830 hours, Hurlburt Field, FL, Building 90042. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974. A copy of AFI 36-3208 will be provided upon your request.

9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

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



, Lt Col, USAF

Commander

Attachments:

Supporting documents--for the reason for discharge

1. AF Form 174, dtd 7 Mar 97
2. AF Form 174, dtd 7 Mar 97
3. AF Form 174, dtd 28 Apr 97
4. LOR, dtd 4 Nov 97
5. LOR, dtd 1 Sep 98
6. AF Form 1058, dtd 9 Sep 98
7. AF Form 1137, not dtd
8. AF Form 3545 w/atchs, dtd 15 Aug 98 (4 pgs)
9. AF Form 3070, dtd 4 Jan 99
10. AF Form 3070, dtd 22 Jan 99
11. Receipt of Airman's acknowledgment