

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AB	AFSN/SSAN ██████████
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

MEMBER SITTING	VOICE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
					X
					X
					X
					X

ISSUES	A92.15 A01.13 A93.01 A92.37	INDEX NUMBER	A67.10		
				COPIES 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 DATE	13 Jan 2004	CASE NUMBER	FD-2003-00435
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APPLICANT, COUNSEL AND THE BOARD'S DECISIONS ARE FINAL AND NOT SUBJECT TO APPEAL OR REVIEW BY ANY OTHER BOARD OR AGENCY.

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.

[Handwritten Signature]

INDORSEMENT	
TO:	FROM:
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR. EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00435

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change his reenlistment code.

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

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

FINDINGS: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are denied.

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

Issue 1. Applicant was discharged for minor disciplinary infractions. The records indicated the applicant received an Article 15, two Letters of Reprimand, a Letter of Counseling, and an Unfavorable Information File for misconduct. His offenses included displaying lewd videotapes in the dormitory, assaulting another airman, damaging government property, underage drinking, driving aggressively off base, and speeding on base. At the time of the discharge, member requested to be retained and given the opportunity for probation and rehabilitation. Applicant now contends the discharge was too harsh. The DRB opined that through the unit's administrative actions, the applicant had the opportunity to change his negative behavior, which was a significant departure from conduct expected of all military members. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The characterization of the discharge received by the applicant was found to be appropriate.

Issue 2. Applicant infers that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance and other accomplishments. They found the seriousness of applicant's misconduct offset any positive aspects of his duty performance. The Board concluded the discharge was appropriate for the reasons that were its basis.

Issue 3 applies to the applicant's post-service activities and his desire to return to military service. The DRB was pleased to see that the applicant was doing well and has a good job. And while the Board sympathizes with the impact his reenlistment code has had on applicant, this is not a matter of inequity or impropriety that justifies an upgrade. The Board concluded applicant's term of service was appropriately characterized.

Issue 4. Applicant infers that he should not be penalized indefinitely for mistakes he made when young. The DRB recognized the applicant was 19 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was as old as the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise this right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community.

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

[REDACTED]
[REDACTED]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 7 Mar 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority Discharge.

2. **BACKGROUND:**

a. DOB: 23 Apr 83. Enlmt Age: 17 2/12. Disch Age: 19 10/12. Educ: HS DIPL. AFQT: N/A. A-83, E-65, G-82, M-70. PAFSC: 1C131 - Air Traffic Controller. DAS: 7 Feb 02.

b. Prior Sv: (1) AFRes 28 Jun 00 - 1 Aug 01 (1 yr 1 month 5 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 2 Aug 01 for 6 yrs. Svd: 1 Yrs 7 Mo 6 Das, all AMS.

b. Grade Status: A1C - 14 Sep 01

c. Time Lost: None.

d. Art 15's: (1) 29 Jul 02, Hurlburt Field, FL - Article 92. You, who knew of your duties, on or about 13 Jun 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21, the legal age in the state of Florida, as it was your duty to do. Article 108. You did, on or about 13 Jun 02, without authority, willfully damage by shattering a window with your fist, military property of the United States, the amount of said damage being in the sum of about \$393.61. Article 128. You did, on or about 13 Jun 02, unlawfully strike A1C [REDACTED] on the body with your hands. Suspended reduction to Airman, and forfeiture of \$394.00 pay. (No appeal) (No mitigation)

e. Additional: LOC, 21 JAN 03 - Traffic Ticket for speeding.

LOR, 31 JAN 03 - Careless and aggressive driving and attempting to elude a law enforcement officer.

LOR, 05 DEC 02 - Displaying indecent video tapes to Air Force members in the dormitory.

f. CM: None.

g. Record of SV: None.

(Discharged from Hurlburt Field)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (8) Das
TAMS: (1) Yrs (7) Mos (6) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Jul 03.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Response to Notification of Administrative Separation.

7NOV03/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES
 The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

MY GOAL IS TO BECOME AN ENLISTED MEMBER OF THE AIR FORCE AGAIN. IF THIS CANNOT BE ATTAINED I WOULD ASK TO PLEASE LEAVE ME WITH AN HONORABLE DISCHARGE SO I MAY ATTAIN A JOB AS AN AIR TRAFFIC CONTROLLER WITH THE GOVERNMENT. THAT IS REALLY THE ONLY WAY TO FIND EMPLOYMENT AS AN AIR TRAFFIC CONTROLLER UNLESS YOU ARE WILLING TO LIVE IN A REMOTE AREA LIKE BETHEL AK. I HAVE A FAMILY AND NEED TO BE AROUND HOSPITALS AND SCHOOLS. THANK YOU FOR YOUR TIME. PLEASE DON'T JUDGE ME FROM THE MISTAKES I MADE AS AN 18 YEAR OLD CHILD. THANK YOU

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION
 I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD) **20030716**

b. SIGNATURE 

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

<p>ARMY Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p>	<p>NAVY & MARINE CORPS Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>	<p>AIR FORCE SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p>COAST GUARD Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001</p>
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I am requested for my discharge to be upgraded from general (under honorable conditions) to an honorable discharge. I am requesting this upgrade on the basis that the reasons for my discharge did not warrant the categorization of General. There were a series of incidents that lead to my General discharge, the first incident I do not object to. This incident was an underage drinking episode. I was 19 years of age and drank three beers. My blood alcohol level will reflect the fact that had I been of age it would have been legal for me to drive. I then had an altercation with a fellow airman in the dorms; I pushed two people and punched through a window. I took full responsibility for my mistake and attended a substance abuse program. I do not deny that what I did was wrong; it was probably the worst mistake that I've made in my life.

Although I would like to clarify the fact that it was not my intention to punch through the window, I was just mad and flailing my arms not thinking about what could happen. In this incident I accept full responsibility for every thing I did as well as the repercussions I received.

After I was detained for this incident the airmen I had the altercation with made a report to the base police that I had videoed women without consent. A couple months after my arrest the base police asked if I would consent to a search of my room. I consented to this search and they retained I video from my room. I did have a video of myself engaging in sexual intercourse but the women were fully aware of the taping. After an extensive investigation they decided that the women were aware of what was going on and that it was perfectly legal. These incidents occurred before I was in the Air Force and although to some it was morally wrong I committed no crime and broke no law. They decided to give me a letter of reprimand for showing the tapes to airman. I would also like to make clear that I did not willfully show this tape off it was left in my VCR when I allowed the airmen in question to borrow it. I was treated very harshly because of this and I feel wrongfully punished. It was made very clear to me by the Commander that he had a daughter my age and if someone had videoed her like I had he would have reacted criminally towards that male individual. I feel that the commander and first sergeant took this incident and every one after it personally. The women in question were fully aware of the video and verbally consented to the taping, there was no illegal activity committed what so ever. The next incident also had to do with the same airmen; he alleged that I had been making threats to him. These threats were allegedly made in person when I was out of town on leave in NY with my family. No criminal punishment was issued and to appease both parties an order of restraint was given.


The next and final incident was a civilian driving infraction, where I was supposedly evading a police officer. On these allegations a civilian traffic court dropped all charges and all adjudication was withheld. The police officer testified that it was a misunderstanding and he had failed to put his lights on to signal me to stop. I therefore was not aware that I was being pulled over for a missing headlight and kept driving. Even though the charges were dropped I received a letter of reprimand and was told that it was my last straw and I was being put up for discharge.

I did not try to argue with this because I was also tired of the unfair treatment I was given. My supervisor, chief controller, Captain, as well as fellow airmen requested that my discharge be Honorable and some went as far as to write a written request to the commander. Despite these requests by everyone that worked with me and really new me I received a General discharge. The majority of incidents have stemmed from one airman, an airman who has an extensive record for being a "problem airmen" and was giving counseling for his lying and other derogatory behavior. He was later detained and sent to the brig for reasons unknown. I was, besides the previously stated incidents, an

exemplary airman. I have never been late for a day of work nor have I ever had to be counseled for anything pertaining to work or military bearing. I was an active participant in squadron functions and consistently volunteered in the community as well as the base. I was a member of the Florosa county volunteer fire department as well as a participant in the big brothers big sisters program. I was on the disaster preparedness team for the base as well as a member of the airmen association. I participated in the Airmen against Drunk Driving council for the base, and was recommended for the Hurlburt Field honor guard. I graduated one of the top of my class in the 1C151 Air Traffic Control School in Biloxi MS. I come from a long line of active duty military members and want nothing more than to serve my country honorable and if given the chance would be honored for the opportunity to re-enlist. I had a series of unfortunate events and mistakes caused by a string of poor choices and a quick temper.

I blame my immaturity and young age for my mistakes but have made extensive steps to avoid any further problems. I have since acquired and retained a great job as a Federal Contract Air Traffic Control Specialist in Bethel Alaska; I am married to my high school girl friend of three years and am a father of a baby girl. I have grown considerably since that period in my life and given the chance it would be my wish to repay America for all the poor choices and hardship I have caused. I am good kid and have the potential to be a great airmen and NCO, I have made mistakes but grown and learned from them. This will give me experience to help future airmen that may be making mistakes get there life back on track. Thank you for you time and effort in this matter.

Respectively submitted,





DEPARTMENT OF THE AIR FORCE
16th OPERATIONS SUPPORT SQUADRON (AFSOC)

4 Feb 03

MEMORANDUM FOR A1C [REDACTED]

FROM: 16 OSS/CC

SUBJECT: Notification of Discharge Recommendation

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically, minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.49. If my recommendation for discharge is approved, your service will be characterized as either honorable or general. I am recommending your service be characterized as general.

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

a. On or about 16 Jan 03, you received a traffic ticket on Hurlburt Field for speeding for which you were given a Letter of Counseling (LOC), dated 21 Jan 03, which was filed in your Personnel Information File (PIF).

b. On 31 Dec 02, you were driving carelessly and aggressively and attempted to elude a law enforcement officer, for which you were given a Letter of Reprimand (LOR), dated 21 Jan 03, which was filed in your Personnel Information File (PIF).

c. On 29 Jul 02, you received Nonjudicial Punishment under Article 15, UCMJ, which was filed in your Unfavorable Information File (UIF) for the following offenses:

(1) You, who knew of your duties, at or near Hurlburt Field, Florida, on or about 13 Jun 02, were derelict in the performances of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21, the legal age in the state of Florida, as it was your duty to do.

(2) You, did, at or near Hurlburt Field, Florida, on or about 13 Jun 02, without proper authority, willfully damage by shattering a window with your fist, military property of the United States, the amount of said damage being in the sum of about \$193.61.

(3) You, did, at or near Hurlburt Field, Florida, on or about 13 Jun 02, unlawfully strike A1C [REDACTED] on the body with your hands.

d. On 1 Apr 02, you displayed videotapes to Air Force members within the dorms of yourself and undisclosed females performing indecent acts, for which you were given a Letter of Reprimand (LOR), dated 5 Dec 02, which was filed in your Personnel Information File (PIF).

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, the characterization of your discharge. Additionally, 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 the Area Defense Counsel at Bldg 90042, Hurlburt Field, FL, on 5 Feb 03 at 1000 hours. You may consult civilian counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three workdays of your receipt of this memorandum, unless you request and receive an extension for good cause. If you provide such statements, I will send them to the separation authority.
6. If you fail to consult counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.
7. You are scheduled for a medical examination and you must report to the Hurlburt Clinic at 1445 hrs on 4 Feb 03 for this purpose.
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 unit orderly room.


2d Lt, USAF
Section Commander

Attachments:

Supporting documents--for the reason for discharge

1. AF Form 1137, undated, (1p.)
2. LOC, dtd 21 Jan 03 (1p.)
3. LOR, dtd 21 Jan 03 (2p.)
4. AF Form 1058, dtd 27 Jan 03 (1p.)
5. LOR, dtd 5 Dec 02 (1p.)
6. AF Form 3070, dtd 29 Jul 02 (3p.)
7. AF Form 1058, dtd 14 Aug 02 (1P)
8. Airman's receipt of notification memorandum