

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE A1C	AFSN/SSAN [REDACTED]
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TYPE GEN	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE	RECORD REVIEW
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NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	<input checked="" type="checkbox"/>		

MEMBER SITTING	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X

ISSUES A93.19 A92.19 A94.05 A94.43	INDEX NUMBER A67.30	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 18 Oct 2004	CASE NUMBER FD-2004-00093
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Case heard via video teleconference between Travis AFB, CA and Andrews AFB, MD.

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

[REDACTED]

TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00093

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

The applicant appeared and testified before the Discharge Review Board without counsel, via video-conference between Travis AFB, CA and Andrews AFB, MD on October 18, 2004.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Character statement dated October 13, 2004 from Mrs JH, applicant's spouse

Exhibit 6: Character statement dated October 11, 2004 from Mr. RD

Exhibit 7: Character statement dated October 6, 2004, from Ms. JK

Exhibit 8: Character statement dated October 13, 2004 from Reverend CC

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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated that pursuant to his guilty plea, the applicant was convicted at Summary Court Martial for theft of \$372.00 from his unit's private organization funds, of which he was treasurer. Additionally, applicant had several instances of failure to pay just debts, failure to maintain vehicle insurance, driving with expired license plates, and having his driver's license suspended, then revoked. The DRB concluded that applicant did commit a very serious offense, about which he lied when first confronted. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. At the time of the offense, applicant was age 24 and 25, and there was no evidence he was immature or didn't know right from wrong, thus he was held accountable for his actions. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issue 2. Applicant noted he had a problem with routine overindulgence in alcoholic beverages, a situation he felt his chain of command should have noted and assisted him with. Yet, he concedes that he exhibited no signs by which his chain of command might have recognized his problem, nor did applicant himself seek assistance from any base agencies such as the chapel, Mental Health clinic, or Family Support Center. The Board recognizes that while alcohol may have adversely impacted applicant's behavior, individuals who commit acts of misconduct under the influence of alcohol are still held accountable for those actions. The applicant's present recovery is commendable but does not mitigate the actions that led to his discharge.

Issue 3. Applicant contends the discharge was inequitable because his chain of command did not give him an opportunity to learn from his mistakes and be retained to finish his period of service. The Board notes the discharge regulations clearly gave his chain of command authority to recommend administratively discharging him based on unsuitability for further military service as a result of his serious misconduct. Facts and circumstances are different in each action and must be judged on a case-by-case basis. In doing

so, a commander must consider the seriousness of the misconduct and how a member's retention might affect good order, discipline, and morale, not just the member's past record of service or rehabilitative potential. They must focus on conduct during the current period of service, and also consider factors such as the member's age, length of service, grade, aptitude, and the standards of acceptable conduct and performance. The regulation provides for circumstances wherein a single incident of misconduct may provide the basis for characterizing service. It should be noted that administrative separation is an action that severs the military status of an individual and characterizes his service, but is not the same as punishment rendered by a civilian judicial proceeding or a punitive discharge rendered by a court martial. Commission of several serious offenses clearly established applicant's unsuitability for further Air Force service. All required procedures were properly followed in the applicant's case.

The applicant noted his desire to return to military service. While the Board commends applicant on this aspiration, it is not a matter of equity or propriety with regard to his discharge and does not provide a basis that warrants an upgrade.

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]

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Minot AFB, ND on 3 Apr 98 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 6 Jun 72. Enlmt Age: 18 5/12. Disch Age: 25 9/12. Educ: HS DIPL. AFQT: N/A. A-95, E-84, G-66, M-89. PAFSC: 3A051 - Information Management Journeyman. DAS: 24 Apr 94.

b. Prior Sv: (1) AFRes 16 Nov 90 - 4 Dec 90 (19 days) (Inactive).

(2) Enlisted as AB 5 Dec 90 for 4 yrs. Extended 22 Sep 92 for 4 months. Svd: 3 yrs 1 month 13 days, all AMS. AMN - 5 Jun 91. A1C - 5 Apr 92. SrA - 5 Dec 93. EPRs: 3,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 18 Jan 94 for 6 yrs. Svd: 4 Yrs 2 Mo 16 Das, of which AMS is 4 yrs 2 months 12 days (excludes 4 days lost time)

b. Grade Status: A1C - 23 Jan 98 (Summary Court Martial, 9 Jan 98)

c. Time Lost: 10 Jan 98 - 13 Jan 98 (4 days).

d. Art 15's: None.

e. Additional: MEMO, 26 JAN 98 - Order of revocation of driving privileges for failure to maintain vehicle liability insurance.

MEMO, 15 DEC 97 - Preliminary suspension of driving privileges for failure to maintain vehicle liability insurance.

Traffic Ticket, 9 DEC 97 - Expired plates and tags.

Traffic Ticket, 9 DEC 97 - Driving without liability insurance.

Traffic Ticket, 9 DEC 97 - License not carried on person.

MEMO, 19 JUL 95 - Delinquent account.

MEMO, 16 APR 96 - Delinquent account.

MEMO, 15 MAR 96 - Delinquent account.

f. CM: Summary Court Martial - 9 Jan 98.

CHARGE: Article 121.

Specification: Did, on divers occasions, within the Continental United States, between on or about 1 Dec 96, and on or about 14 Sep 97, steal money, of a total value of about \$372.00, the property of the Missile Maintenance Association. Sentence adjudged on 9 Jan 98: Two hundred dollar fine, 40 days hard labor, 7 days confinement, and reduction to E-3.

g. Record of SV: 05 Aug 93 - 02 Mar 94 Incirlik AB 5 (CRO)
 03 Mar 94 - 24 Mar 95 Minot AFB 5 (Annual)
 25 Mar 95 - 24 Mar 96 Minot AFB 5 (Annual)
 25 Mar 96 - 24 Mar 97 Minot AFB 5 (Annual)
 25 Mar 97 - 18 Feb 98 Minot AFB 2 (Cmdr Dir) REF

h. Awards & Decs: AFAM W/1 OLC, JSAM, AFLSAR, AFTR, SWASM W/3 BS, AFOSSTR, NDSM, HSM W/1 OLC, NCOPMER, AFOUA W/3 OLCS, JMUA, AFGCM W/1 OLC.

i. Stmt of Sv: TMS: (7) Yrs (4) Mos (15) Das
 TAMS: (7) Yrs (3) Mos (26) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 18 Feb 04.

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

Issue 1: I served 84 months of service honorably. Made a serious error in judgement. Was court-martialed for it (a special court martial). Pled guilty. Reduced in grade. Lost a promotion. Paid back the money. Served confinement. Served my additional duty as well. After all this was done, I was still separated; without given a chance to finish my enlistment, without being given a chance to better the Air Force, without being given a chance to learn from my error. I am wanting to reenter (sic) the Air Force to be a chaplain. This discharge and character of service will make it impossible for me to contribute to the health, morale and wellness of my fellow airmen.

ATCH
 None.

6APR04/ia



DEPARTMENT OF THE AIR FORCE

91ST SPACE WING (AFSPC)

FD 2004-00093

03 MAR 1998

MEMORANDUM FOR A1G [REDACTED]

FROM: 91 MXS/CC

SUBJECT: Notification Letter - Board Entitled - AFI 36-3208, Para 5.52.3

1. I am recommending your discharge from the United States Air Force for misconduct; specifically, commission of a serious offense, under the provisions of AFI 36-3208, Section H, paragraph 5.52.3. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. On or about 1 Dec 96 and on or about 14 Sep 97 on diverse occasions, you stole money totaling \$372.00, property of the Missile Maintenance Association. You pleaded guilty to and were convicted of one charge and one specification of violating Article 121, UCMJ, at a Summary Court-Martial on 9 Jan 98. You were sentenced to 7 days confinement, forfeiture of \$200.00, 40 days hard labor, and reduction to Airman First Class.
3. Due to the seriousness of the acts of misconduct which you committed, and the manner in which your conviction tarnishes the image of the Air Force service members, I am recommending that you receive a general 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 the Air Force and will probably be denied enlistment in any component of the armed forces and any special pay, bonus, or education assistance funds may be subject to recoupment.
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 rights.

GUARDIANS OF THE HIGH FRONTIER

5. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult with the Area Defense Counsel [REDACTED] at 300 Summit Drive, room 306A, on 4 Mar 97, at 1030 hours. You may consult civilian counsel at your own expense.
6. 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.
7. You have been scheduled for a medical examination. You must report to the 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND, at 0800, on 6 Mar 97, for the examination. If you are over age 25, you must not consume alcohol 72 hours prior to the exam; nor eat fatty foods (dairy products, fried food, red meats, and seafood) 24 hours prior to the exam. Do not eat, drink, smoke, or chew tobacco 14 hours prior to the exam. (You should drink 4-6 glasses of water during the 14-hour period).
8. The Privacy Act Statement as explained in AFI 36-3208, Attachment 2, covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the Orderly Room.
9. Sign the attached acknowledgment and the Statement of Understanding and return them to me immediately.

[REDACTED]
[REDACTED] USAF
Commander, 91st Maintenance Squadron

Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. Documents to be Forwarded to the Separation Authority