

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 GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

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

ISSUES A92.21 A93.09	INDEX NUMBER A67.90	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 DATE 26 Aug 2004	CASE NUMBER FD-2004-00201	
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APPLICANT, COUNSEL, AND THE BOARD SHALL SIGNSE AND APPROVE OF THE ATTACHED COPY OF DISCHARGE REVIEW BOARD DECISION. INITIALS

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.

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-2004-00201

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant was offered a personal appearance before the Discharge Review Board 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 is 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 conduct prejudicial to good order and discipline. Member received an Article 15, a vacation of suspended punishment, two Letters of Counseling, a Letter of Reprimand, and pursuant to his guilty pleas, was convicted by Summary Court Martial for various acts of misconduct. His offenses included driving while intoxicated, underage alcohol consumption, breaking base restriction on two occasions, multiple incidents of failure to go, and failing to maintain his dormitory room within standards. At the time of court martial, member entered into a Pre-Trial Agreement which kept his proceeding in the Summary Court arena, and in which he also agreed to unconditionally waive his right to an administrative discharge board if later recommended for discharge with an under other than honorable conditions (UOTHC) separation. He was in fact recommended for a UOTHC, and in spite of unconditional waiver of his right to a board hearing, he requested the convening authority consider characterizing his service as general, under honorable conditions. That request was granted. Applicant now notes he used poor judgment and made mistakes while in the service. The board noted he was age 18 to 19 when his misconduct occurred, essentially the same age as other airmen who complete their enlistments without disciplinary infractions, and there was no evidence he did not know right from wrong. Member had the opportunity to change his negative behavior and was either unwilling or unable to do so. Therefore, the Board found the record supports the characterization of service received.

Issue 2 applies to the applicant's post-service activities. Applicant contends that he should not be penalized indefinitely for mistakes he made when young and notes his achievements since leaving the service. The DRB was pleased to see that the applicant was doing well and has a good job. However, this does not provide a basis of inequity or impropriety during his period of service that warrants an upgrade. The Board concluded applicant's misconduct 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 AB) (HGH AMN)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Malmstrom AFB, MT on 24 Mar 00 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 18 Aug 80. Enlmt Age: 18 7/12. Disch Age: 19 7/12. Educ: HS DIPL. AFQT: N/A. A-54, E-72, G-44, M-78. PAFSC: 3P031 - Security Apprentice. DAS: 15 Sep 99.

b. Prior Sv: (1) AFRes 19 Mar 99 - 20 Apr 99 (1 month 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 Apr 99 for 4 yrs. Svd: 0 Yrs 11 Mo 4 Das, of which AMS is 0 yrs 10 months 12 days (excludes 23 days lost time).

b. - Grade Status: AB - 14 Jan 00 (Article 15, 14 Jan 00)
Amn - 21 Oct 99

c. Time Lost: 24 Jan 00 thru 15 Feb 00 (23 days).

d. Art 15's: (1) 11 Feb 00, Vacation, Malmstrom AFB, MT - Article 134. You, having been restricted to the limits of Malmstrom AFB, MT, by a person authorized to do so, did, at Malmstrom AFB, MT, on or about 24 Jan 00, break said restriction. Forfeiture of \$502.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 14 Jan 00, Malmstrom AFB, MT - Article 92. You, who knew of your duties, on or about 28 Dec 99, were derelict in the performance of those duties in that you willfully failed to maintain your dormitory room in accordance with MAFBI 32-6001, Resident Responsibility Memorandum, as it was your duty to do. Reduction to AB, suspended forfeiture of \$502.00 pay per month for two months, 30 days restriction, and 45 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 17 DEC 99 - Failure to go.
LOC, 15 DEC 99 - Failure to go.
LOC, 22 NOV 99 - Late returning from lunch.

f. CM: Summary Court Martial - 4 Feb 00

CHARGE I: Article 86.

Specification: Did, on or about 24 Jan 00, at the Main Gate on Goddard Drive, physically control a vehicle, to wit: a passenger car, while the alcohol concentration in his breath was 0.10 grams of alcohol per 210 liters of breath or greater. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 92.

Specification: Who knew of his duties, on or about 24 Jan 00, was derelict in the performance of those duties in that he willfully failed to refrain from drinking alcohol while under the age of 21 years, as it was his duty to do. Plea: Guilty. Finding: Guilty.

CHARGE III: Article 134.

Specification 1: Having been restricted to the limits of Malmstrom AFB, MT, by a person authorized to do so, did, on or about 3 Jan 00, break said restriction. Plea: Guilty. Finding: Guilty.

Specification 2: Having been restricted to the limits of Malmstrom AFB, MT, by a person authorized to do so, did, on or about 24 Jan 00, break said restriction. Plea Guilty. Findings: Guilty. Sentence: Reprimand. To forfeit \$500.00 of your pay for one month. To be confined for 28 days.

g. Record of SV: None.

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (0) Yrs (11) Mos (14) Das
TAMS: (0) Yrs (10) Mos (12) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 May 04.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Two Letters of Support.
3. DD Form 214.
4. Copies of Civilian Law Enforcement Training, Certificates and Records.

13JUL04/ia

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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.

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

a. DOCUMENT 1:

ALTAMAHA DRUG TASK FORCE, AGENT [REDACTED] GBI # 75(LETTER OF COMMENDATION FOR [REDACTED]

b. DOCUMENT 2:

LETTER FROM [REDACTED] ASST. COMMANDER, M.A.C.E., JOB EVALUATION.

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.

While I was enlisted in the U.S. Air Force I made mistakes and used poor judgement from time to time. I received an article 15 for possessing an un-lit candle in my dorm room. Shortly there after I received a DU I on Malmstrom AFB and a summary Court Martial as a result. On the evening of the 24th of January 2000 I broke base restriction, which was imposed as a result of my previous article 15, I was apprehended by security Police and detained for 23 days. Prior to and subsequent to the summary Court Martial. I managed to destroy my opportunity to serve as an Airman in one evening due to my DU I and by breaking base restriction. I performed well during my training in both basic and Security Forces Tech School. My sudden decline in judgement and my underage drinking behavior was due to medical and personal problems at the time; however, I make no excuses and I take responsibility for my immature mistakes. Since my seperation I have done the best I could with my life and my General discharge under honorable circumstances. I have consumed no alcoholic beverages in Four years. I have also functioned as a certified Georgia Police Officer for three years and four months. While serving as a Police Offficer, I have been assigned to the defective unit functioning as a narcotics investigator for two years and five months. I have received no disciplinary actions during my law enforcement career. I have continued my education in the area of criminal justice while serving my community. I have excelled in my civillian profession and cunducted joint invesfigations with the FBI, ATF, DEA, U.S. Customs, Office of Homeland Security, Army CID, and other state/ local agencies. I have strived to be an upstanding citizen and make the best life for my family and I as possible. This request comes before the board in an attempt to correct an immature mistake made during a childish, selfish time in my life. I am making this request so that I may continue to serve the Public in a Law Enforcement capacity and not be held back for the remainder of my life due to immaturities during my youth. Thank you for the Board's consideration.

X 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)

5-27-04

b. SIGNATURE

[REDACTED SIGNATURE]

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
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)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE :
HEADQUARTERS 341ST SPACE WING (AFSPC)

FD 2004-00201

28 FEB 00

MEMORANDUM FOR 564 MS (ATTN: [REDACTED])

FROM: 564 MS/CC

SUBJECT: Notification Memorandum - Board Hearing

1. Pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.50, I am recommending your discharge from the United States Air Force for a pattern of misconduct--conduct prejudicial to good order and discipline. If my recommendation is approved, your service will be characterized as either honorable, general, or under other than honorable conditions. I am recommending an under other than honorable discharge.

2. My reasons for this action are:

a. On 22 Nov 99, you failed to return from lunch break on time. For this misconduct you received a Letter of Counseling (LOC) dated 22 Nov 99.

b. On 15 Dec 99, you failed to go to your appointed place of duty at the appointed time. For this misconduct you received an LOC dated 15 Dec 99.

c. On 17 Dec 99, you failed to go to your appointed place of duty at the appointed time. For this misconduct you received a Letter of Reprimand (LOR) dated 17 Dec 99.

d. On 28 Dec 99, you failed to maintain your dormitory room in accordance with MAFBI 32-6001, Resident Responsibility Memorandum. For this misconduct you received an Article 15 dated 14 Jan 00.

e. On 24 Jan 00 you broke restriction on two different occasions, physically drove a vehicle while the alcohol concentration on your breath was .10 grams of alcohol per 210 liters of breath or greater and were derelict in your duties in that you willfully failed to refrain from drinking alcohol while under the age of 21 years. For this misconduct you were tried by summary court-martial and found guilty. Your punishment was confinement for 28 days, forfeiture of \$500.00 pay for one month and a reprimand.

f. On 24 Jan 00, you broke restriction. For this misconduct you received a vacation of suspended punishment dated 14 Feb 00.

3. This action could result in your separation with an under other than honorable conditions 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. Any special pay, bonus or education assistance funds may be subject to recoupment.

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11. Execute the attached acknowledgement and return it to me immediately.



Lt Col, USAF

Commander

Attachments:

1. Supporting documents:
 - a. LOC dated 22 Nov 99
 - b. LOC dated 15 Dec 99
 - c. LOR dated 17 Dec 99
 - d. AF Form 3070 dated 14 Jan 00
 - e. AF Form 1359 dated 4 Feb 00
 - f. AF Form 366 dated 14 Feb 00
2. Airman's Receipt of Notification Memorandum