

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

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

ISSUES A92.21 A93.01	INDEX NUMBER A67.00	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; padding: 5px; text-align: center;">1</td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 5px; text-align: center;">2</td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 5px; text-align: center;">3</td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 5px; text-align: center;">4</td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE</td> </tr> </tbody> </table>	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
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HEARING DATE 01 Dec 2004	CASE NUMBER FD-2004-00205	
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APPLICANT'S ISSUE AND THE BOARD'S DECISION ARE PRINTED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISION RATIONALE

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-2004-00205

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 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 misconduct. The records indicate the applicant received two Articles 15, one for fraudulently obtaining taxi services from a foreign national while pretending he would pay the fare, and the other for conspiring with a civilian cashier of the Army Air Force Exchange Service to commit larceny, and through the conspiracy, stealing merchandise. Unfortunately, member's discharge processing files were unavailable to the Board for review due to being missing from the record. Because member's discharge file was unavailable to the Board for review, the Board was unable to conclusively ascertain if there was other misconduct on member's part that formed additional basis for the discharge. The Board also could not determine if member consulted counsel or submitted statements on his own behalf at the time of the discharge. When requested to provide any pertinent information he may have about the discharge file or his record of service, applicant failed to respond. A review of applicant's medical records and remaining documentation in his Unit Personnel Record Group disclosed an Enlisted Performance Report rated an overall referral "1" which documented substandard duty performance, lack of motivation, numerous missed appointments, failure to improve after repeated counselings, and the need for constant supervision. Member was also referred for alcohol abuse evaluation by his commander after involvement in a bar fight, and then entered into the substance abuse rehabilitation program. Furthermore, member disclosed between two to four incidents of pre-service marijuana use. Lacking documented evidence from the applicant to the contrary, the Board relies on the presumption of regularity and finds the discharge proper and without basis for an upgrade. The Board concluded applicant's misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate. No inequity or impropriety could be found in this discharge in the course of the records review.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 3. Applicant infers that he should not be penalized indefinitely for mistakes he made when young. The DRB noted the applicant was 21 years of age when the discharge took place; 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 his misconduct.

Issue 4 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well. However, this is also not a matter of inequity or impropriety which would warrant 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 AMN) (HGH A1C)

MISSING DISCHARGE DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr RAF Lakenheath, UK on 29 Mar 96 UP AFI 36-3208 (Misconduct). Appeals for Honorable Discharge.
2. **BACKGROUND:**
- a. DOB: 19 Aug 74. Enlmt Age: 18 5/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-54, E-41, G-50, M-30. PAFSC: 3P031 - Security Apprentice. DAS: 1 Nov 93.
- b. Prior Sv: (1) AFRes 29 Jan 93 - 26 May 93 (3 months 28 days) (Inactive).
3. **SERVICE UNDER REVIEW:**
- a. Enlisted as AB 27 May 93 for 4 yrs. Svd: 2 Yrs 10 Mo 4 Das, all AMS.
- b. Grade Status: Amn - 20 Nov 95 (Article 15, 20 Nov 95)
 A1C - 27 Sep 94
 Amn - Unknown
- c. Time Lost: None.
- d. Art 15's: (1) 20 Nov 95, RAF Lakenheath, UK - Article 81. You, did, from on or about 1 Sep 95 to on or about 20 Oct 95, conspire with [REDACTED] to commit an offense under the UCMJ, to wit: larceny of merchandise, of a value of less than \$100.00, the property of the Army and Air Force Exchange Service, and in order to effect the object of the conspiracy you and [REDACTED] did agree that you would not pay the full amount for merchandise at Army and Air Force Exchange Service when [REDACTED] was a cashier. Article 121. You, did, on divers occasions from on or about 1 Sep 95 to on or about 20 Oct 95, steal merchandise, of a value of less than \$100.00, the property of Army and Air Force Exchange Service. Reduction to Airman, forfeiture of \$200 pay, 14 days restriction, and 14 days extra duty. (No appeal) (No mitigation)
- (2) 20 Oct 94, RAF Lakenheath, UK - Article 134. You did, at Attleborough, England, on or about 29 Sep 94, with intent to defraud, falsely pretend to [REDACTED] that you would pay for your fare, then knowing that the pretense was false and by means thereof did wrongfully obtain from [REDACTED] services, of a value of

about L38.00 British Pounds Sterling, to wit: a taxi fare from Attleborough, England, to Dereham Close, RAF Lakenheath. Suspended reduction to Airman. Forfeiture of \$200.00 pay, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: Unknown.

f. CM: None.

g. Record of SV: 27 May 93 - 23 Feb 95 RAF Lakenheath 1 (Initial)REF
24 Feb 95 - 24 Sep 95 RAF Lakenheath 3 (CRO)

h. Awards & Decs: AFOSLTR, AFTR.

i. Stmt of Sv: TMS: (3) Yrs (2) Mos (1) Das
TAMS: (2) Yrs (10) Mos (4) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 May 04
(Change Discharge to Honorable)

Issue 1: I am currently trying to enroll in School(College) to work for degree. Financially (sic) I would need the aid of my G.I. Bill if possible for attaining my degree. I have also considered becoming a police officer or persuing a career in law enforcement. My goal is only to prosper and feel that my discharge would be the only factor holding me back from reaching my goal. It has been 8 yrs since my discharge from the military and I look at the experience as positive for molding me into the upstanding citizen I am today. I just want a chance to prosper and go for them in my education and career.

Issue 2: I hope that the board will see that my actions at the time were of imaturity (sic). I have continued to strive and be the best member of society that I can possibly be. I have a (sic) excellent criminal and work record and presently work with troubled youth. Hopefully giving them the knowledge and guidance so that they don't make some of the mistakes I have made in the past. I regret many of my actions as a serviceman and feel that it was a job undone, but am glad at the fact I have made significant changes for my future. As a husband and father I only want to be able to provide for my family. The only way that I can do that successfully is by moving forward.

ATCH

1. DD Form 149.

7SEP04/ia