

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <b>[REDACTED]</b>	GRADE <b>AB</b>	AFSN/SSAN <b>[REDACTED]</b>
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<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
<small>COUNSEL</small>	<small>NAME OF COUNSEL AND OR ORGANIZATION</small>	<small>ADDRESS AND OR ORGANIZATION OF COUNSEL</small>	
<small>YES</small>	<small>No</small>		
	<b>X</b>		

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

ISSUES <b>A94.53</b>	INDEX NUMBER <b>A67.00</b>	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		<b>1</b> ORDER APPOINTING THE BOARD
		<b>2</b> APPLICATION FOR REVIEW OF DISCHARGE
		<b>3</b> LETTER OF NOTIFICATION
		<b>4</b> 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 <b>15 Sep 2004</b>	CASE NUMBER <b>FD-2004-00219</b>	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL 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.

<b>INDORSEMENT</b>		<b>DATE: 9/17/2004</b>
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	

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD-2004-00219

**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 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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

**ISSUES.** Applicant was discharged for discreditable involvement with military or civil authorities. Member received an Article 15, two Letters of Reprimand, and pursuant to his guilty pleas, was convicted by Summary Court Martial for conspiracy to perpetrate an insurance fraud resulting in larceny of an amount greater than \$500.00, and making a false official statement with regard to the same incident. His other offenses were three incidents of failure to go. At the time of the subsequent administrative discharge processing, member consulted counsel and waived his right to submit statements in his own behalf. Applicant now notes he made mistakes while in the service, but has learned from them. The Board noted he was age 19 to 20 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. The Board further concluded that conspiracy and making false statements are very serious breaches of expected standards. Therefore, the Board found the record supports the characterization of service received.

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

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Pope AFB, NC on 22 May 03 UP AFI 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 20 Oct 82. Enlmt Age: 18 3/12. Disch Age: 20 7/12. Educ: HS DIPL. AFQT: N/A. A-65, E-67, G-66, M-76. PAFSC: 2A634 - Aircraft Fuel Systems. DAS: 5 Mar 02.

b. Prior Sv: (1) AFRes 13 Feb 01 - 24 Sep 01 (7 months 12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 25 Sep 01 for 4 yrs. Svd: 1 Yrs 7 Mo 28 Das, of which AMS is 1 Yr 7 Mos 16 days (excludes 12 days lost time).

b. Grade Status: AB - 16 Apr 03 (Summary Court Martial, 21 Mar 03)  
 Amn - 16 Apr 02

c. Time Lost: 21 Mar 03 - 2 Apr 03 (12 days).

d. Art 15's: (1) 10 Mar 03, Pope AFB, NC - Article 86. You did, on or about 22 Feb 03, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB (Suspended on appeal). (Appeal/Granted) (No mitigation)

e. Additional: LOR, 6 JAN 03 - Failure to go in a timely manner.  
 LOR, 9 DEC 02 - Failure to go.

f. CM: Summary Court Martial - 21 Mar 03.

CHARGE I: Article 134.

Specification: Did, on or about 26 Dec 02, on an AF Form 1168, wrongfully and unlawfully make under lawful oath or affirmation false statements in substance as follows: [REDACTED] went to sleep pretty early, then I went to sleep a little while after that and woke up at around 3 am or so and I saw [REDACTED] on the couch and Mike was gone. He ([REDACTED]) called when I was sleeping at 1030 and told me his car was stolen. I didn't believe him but he said he was serious," and in response to the question of whether [REDACTED] knew what happened to [REDACTED] car, "I know that it

was stolen on the morning of 26 Dec 02 in front of his appt. complex," or words to that effect, which statements he did not then believe to be true. Plea: Guilty. Findings: Guilty.

CHARGE II: Article 81.

Specification: Did, on or about 25 Dec 02, within the continental United States, conspire with [REDACTED] and [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: larceny by wrongfully obtaining from Geico Direct Insurance Company money of a value of more than \$500, and in order to effect the object of the conspiracy the said [REDACTED] did allow the use of his garage for, and participated in, the dismantling of [REDACTED], and did participate in the disposal of said vehicle at or near Raeford, North Carolina, by driving [REDACTED] vehicle to the disposal site. Plea: Guilty. Findings: Guilty. Sentence adjudged on 21 Mar 03: Fifteen days confinement, forfeiture of 2/3 pay (\$767.00) for 1 month and reduction to Airman Basic (E-1).

g. Record of SV: None.

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (2) Mos (28) Das  
TAMS: (1) Yrs (7) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 4 Jun 04.  
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I would like to upgrade my discharge type in hopes of rejoining the United States Air Force. I believe I will not make any of the mistakes that I've made in the past, I've learned my lessons and realized (sic) how big of a mistake I made. Thank you for your time and consideration.

**ATCH**

None.

23JUL04/ia



DEPARTMENT OF THE AIR FORCE  
 HEADQUARTERS 43D AIRLIFT WING (AMC)  
 POPE AIR FORCE BASE, NORTH CAROLINA

6 MAR 03

MEMORANDUM FOR [REDACTED]

FROM: 43 MXS/CC  
 1443 Reilly Street  
 Pope AFB, NC 28308

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50, specifically paragraph 5.50.1, Discreditable Involvement with Military or Civil Authorities. This action could result in your separation with an Under Other Than Honorable Conditions discharge (UOTHC), if the convening authority determines such characterization is warranted and directs initiation of a discharge board. I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. On or about 26 Dec 02, you wrongfully and unlawfully made under lawful oath or affirmation false statements in substance as follows: [REDACTED] went to sleep pretty early, then woke up at around 3 am or so and I saw [REDACTED] on the couch and [REDACTED] was gone. He ([REDACTED]) called me when I was sleeping at 1030 and told me his car was stolen. I didn't believe him but he said he was serious," and in response to the question of whether you knew what happened to [REDACTED]'s car, "I knew that it was stolen on the morning of 26 Dec 02 in front of his apartment," which statements he did not then believe to be true, as documented by an AF Form 1359, Report of Result of Trial, dated 21 Mar 03.


b. On or about 25 Dec 02, you conspired with [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: larceny by wrongfully obtaining from Geico Direct Insurance Company money of a value of more than \$500, and in order to effect the object of the conspiracy you allowed the use of your garage for, and participated in, the dismantling of [REDACTED] vehicle, and did participate in the disposal of said vehicle at or near Raeford, North Carolina, by driving [REDACTED]'s vehicle to the disposal site, as documented by and AF Form 1359, Report of Result of Trial, dated 21 Mar 03.

c. On or about 22 Feb 03, you failed to go at the time prescribed to your appointed place of duty, to wit: building 734, as documented by and AF Form 3070, Record of Nonjudicial Punishment, dated 10 Mar 03.

d. On or about 23 Dec 02, you failed to go to your appointed place of duty, to wit: building 734 (ND-5), to sign in during the holiday break downtime, as documented by a Letter of Reprimand (LOR), dated 6 Jan 03.

e. On or about 6 Dec 02, you failed to go to your appointed place of duty, to wit: building 734, (ND-5), as documented by an LOR, dated 9 Dec 02.

3. The 43d Airlift Wing Commander, who exercises SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. Copies of the documents to be forwarded to the Separation Authority in support of this recommendation are attached. If you are discharged, you will be ineligible for reenlistment in the Air Force and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. **You have the right to consult counsel. Military legal counsel has been obtained to assist you.** Contact  at the Area Defense Counsel's office immediately after being served with this notification memorandum. At that time an appointment will be scheduled for you to consult the Area Defense Counsel. You may consult civilian counsel at your own expense. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

5. You have the right to submit a statement on your own behalf. Any statements you want the Separation Authority to consider must reach me by 9 MAY 03 at 0900 unless you request and receive an extension for good cause shown. Any submitted statements will be forwarded to the Separation Authority.

6. If you fail to consult counsel or to submit statements on your own behalf in **three duty days**, your failure will constitute a waiver of your right to do so.

7. 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 orderly room.

  
Commander

Attachments:

- 1. AF Form 1359, dated 21 Mar 03
- 2. AF Form 3070, dated 10 Mar 03
- 3. LOR, dated 6 Jan 03/ Response
- 4. LOR, dated 9 Dec 02