

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

ISSUES A92.21 A93.01	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-2004-00255	
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APPLICANT: THE BOARD IS NOT TO BE RELEASED OR DISCLOSED TO THE MEDIA OR ANY OTHER SOURCE WITHOUT THE WRITTEN PERMISSION OF THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD PERSONNEL.

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.

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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-2004-00255

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, and received an under other than honorable conditions characterization of service. Member received three Articles 15 and a Letter of Reprimand for misconduct. His offenses included a civilian arrest for driving while intoxicated, driving on revocation, wrongful use of his government travel card for personal purposes, and an extra-marital affair. When recommended for administrative discharge, the member submitted a conditional waiver of his right to a board hearing in hopes of receiving a general discharge. When that was denied, he submitted an unconditional waiver of his right to a board hearing, and he failed to submit statements in his own behalf. The board noted member had several Enlisted Performance Reports, one of which was a referral due to his repeated misconduct. Member was age 19 to 23 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 ample 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. However, this does not provide a basis of inequity or impropriety which warrants an upgrade. The Board concluded applicant's misconduct appropriately characterized his term of service.

Issue 3. 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 also is not a matter of inequity or impropriety which would warrant 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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr Offutt AFB, NE on 28 Jan 97 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: 26 Mar 73. Enlmt Age: 19 8/12. Disch Age: 23 10/12. Educ: HS DIPL. AFQT: N/A. A-80, E-73, G-72, M-41. PAFSC: 2E231 - Electronic Component and Switching Systems Apprentice. DAS: 16 Dec 93.

b. Prior Sv: (1) AFRes 19 Dec 92 - 2 Feb 93 (1 month 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Feb 93 for 6 yrs. Extended 10 May 96 for 17 months. Svd: 3 Yrs 11 Mo 26 Das, all AMS.

b. Grade Status: AB - 12 Nov 96 (Article 15, 12 Nov 96)
 A1C - 3 Jul 96 (Article 15, 3 Jul 96)
 SrA - 20 Jul 95
 A1C - 18 Mar 93

c. Time Lost: None.

d. Art 15's: (1) 12 Nov 96, Offutt AFB, NE - Article 134. You, a married man, did, at or near Bellevue, Nebraska, on or about 12 Oct 96, wrongfully have sexual intercourse with [REDACTED] a woman not your wife. Reduction to AB. (No appeal) (No mitigation)

(2) 3 Jul 96, Offutt AFB, NE - Article 92. You did, on divers occasions between on or about 23 May 96 to on or about 10 Jun 96, fail to obey AFI 65-104, dated 1 Sep 95, by wrongfully using your American Express Card for other than official use. Reduction to A1C, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

(3) 20 Jun 96, Offutt AFB, NE - Article 92. You, having knowledge of a lawful order issued by Col [REDACTED] [REDACTED] 55th Support Group Commander, to wit: Notice of Revocation of Base Driving Privileges, dated 21 Mar 96, suspended driving privileges for one year, an order which it was your duty to obey, did, on or about 7 Jun 96, fail to obey the same by wrongfully driving on [REDACTED]

Offutt AFB, NE. Suspended reduction to A1C.
 Forfeiture of \$50.00 pay, 10 days restriction, and 10
 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 19 MAR 96 - Driving while drunk.

f. CM: None.

g. Record of SV: 03 Feb 93 - 02 Oct 94 Offutt AFB 3 (Initial)
 03 Oct 94 - 02 Oct 95 Offutt AFB 5 (Annual)
 03 Oct 95 - 16 May 96 Offutt AFB 4 (CRO)
 17 May 96 - 17 Jul 96 Offutt AFB 2 (Cmdr Dir)REF

h. Awards & Decs: AFOEA, AFGCM, NDSM, AFTR.

i. Stmt of Sv: TMS: (4) Yrs (1) Mos (10) Das
 TAMS: (3) Yrs (11) Mos (26) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 29 Jun 04.
 (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Three Character References.

9AUG04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 55TH SUPPORT GROUP (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

FD 2004-00255

MEMORANDUM FOR AB [REDACTED]

9 Dec 96

FROM: 20 IS/CC

SUBJECT: Letter of Notification--Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct--Pattern of Misconduct. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On 10 March 1996, you drove a motor vehicle while drunk. For this incident you received a letter of reprimand, dated 19 March 1996, and an unfavorable information file was created. (Atch 1-1)

b. On 7 June 1996, you drove a vehicle on base in violation of a lawful order issued by the 55th Support Group commander revoking your base driving privileges. For this incident you received nonjudicial punishment, dated 20 June 1996, consisting of a suspended reduction to grade of Airman First Class; forfeiture of \$50.00 pay; restriction to Offutt AFB for 10 days; and 10 days extra duty. (Atch 1-2)

c. On divers occasions between 23 May 1996 and 10 June 1996, you wrongfully used your American Express Card for other than official use in violation of Air Force Instruction 65-104. For this incident you received nonjudicial punishment, dated 3 July 1996, consisting of a reduction to the grade of Airman First Class; restriction to Offutt AFB for 30 days; and 30 days extra duty. (Atch 1-3)

d. On 12 October 1996, you wrongfully had sexual intercourse with a woman not your wife. For this incident you received nonjudicial punishment, dated 12 November 1996, consisting of a reduction to the grade of Airman Basic. (Atch 1-4)

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising special court-martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force and probably any other branch of the military.

4. You have the right to:

a. Consult Legal counsel.

b. Present your case to an administrative discharge board.

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- 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.

5. Military legal counsel is available to assist you. Instead of an appointed military counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ Civilian counsel, if employed, must be readily available.


6. Confer with your counsel and reply, in writing, within seven workdays (NLT ~~19 Dec~~ 1996), 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. 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 in your unit orderly room.

8. If you request a board hearing and fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

9. The discharge board or the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).

10. Execute the attached acknowledgment and return it to me immediately.


 Lt Col, USAF
 Commander, 20 Intelligence Squadron

Attachments:

- Atch 1-1; Letter of reprimand, 19 Mar 96
- Atch 1-2; Nonjudicial punishment, 20 Jun 96
- Atch 1-3; Nonjudicial punishment, 3 Jul 96
- Atch 1-4; Nonjudicial punishment, 12 Nov 96