

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
---	-------------	-------------------------

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION YES No <input type="checkbox"/> <input checked="" type="checkbox"/>		ADDRESS AND OR ORGANIZATION OF COUNSEL	

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

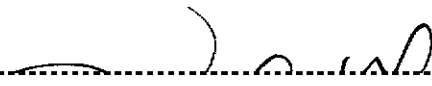
ISSUES A94.53	INDEX NUMBER A67.30	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
		4 BRIEF OF PERSONNEL FILE
		COUNSEL'S RELEASE TO THE BOARD
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
		TAPE RECORDING OF PERSONAL APPEARANCE

HEARING DATE 08 Dec 2004	CASE NUMBER FD-2004-00294	
------------------------------------	-------------------------------------	--

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.


 [REDACTED SIGNATURE AREA]

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-2004-00294

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 is 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 commission of a serious offense. Pursuant to his guilty pleas, member was convicted at Special Court Martial in July 2003 of nine specifications of wrongful appropriation and one specification of stealing, all from his active duty roommate, who was deployed at the time. Member wrote nine checks totaling \$873.00 out of his roommate's account, over a 2-month period. He also stole 33 compact discs. This misconduct occurred at his second duty station. He was sentenced to a reduction of three pay grades, forfeitures, and 163 days confinement. At the time of the administrative discharge processing, applicant consulted counsel and submitted a statement in his own behalf noting he had made restitution, apologizing for his actions, and requesting retention. The records also disclosed member had two Enlisted Performance Reports, one from his first duty station that documented his consistent lack of motivation, slow adaptation to the military way of life, financial irresponsibility, and weight management problems. It was also during that first assignment that he was denied a good conduct medal in June 2001, and was decertified from the Personnel Reliability Program for a pattern of disciplinary problems, financial irresponsibility, and non-adherence to standards. Additionally, member also apparently participated in the motivation flight in April 2002, and received a Letter of Reprimand (LOR) in January 2003 for missing a mandatory physical training formation. He received two more LORs for disrespect to a senior noncommissioned officer, making a threat, and being unprepared for duty. The Board noted member repeatedly committed very serious acts of misconduct that had a tendency to bring discredit to the armed forces and for which he could have received a punitive discharge. Member was over age 21 when his court martial offenses occurred, essentially the same age as other airmen who complete their terms of service honorably with no such record of criminal behavior. There was no evidence applicant did not know right from wrong, so he was responsible for his actions and properly held accountable for them. No inequity or impropriety was found in this discharge in the course of the records review.

Applicant noted his desire to return to military service. While the Board is sympathetic to the impact of the reenlistment code on applicant's aspirations, this is not a matter of inequity or impropriety on which to base and 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 GEN Disch fr Holloman AFB, FL on 5 Dec 03 UP AFI 36-3208, para 5.52 (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: 12 Nov 81. Enlmt Age: 17 6/12. Disch Age: 22 0/12. Educ: HS DIPL. AFQT: N/A. A-46, E-40, G-44, M-28. PAFSC: 3P051 - Security Journeyman. DAS: 28 Nov 01.

b. Prior Sv: (1) AFRes 29 Apr 99 - 25 May 99 (27 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 May 99 for 6 yrs. Svd: 4 Yrs 6 Mo 10 Das, of which AMS is 4 yrs 1 month 29 days (excludes 4 months 12 days lost time).

b. Grade Status: AB - 12 Aug 03 (SPCMO No.6, 19 Aug 03)
 SrA - 9 Nov 01
 A1C - 9 Jul 99

c. Time Lost: 22 Jul 03 thru 4 Dec 03 (4 months 12 days).

d. Art 15's: None.

e. Additional: LOR, 7 JUL 03 - Disrespect to an SNCO and making a threat.
 LOR, 4 MAR 03 - Unprepared for duty.

f. CM: Special Court Martial Order No.6 - 19 Aug 03

CHARGE: Article 121. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Alamogordo, New Mexico, between on or about 10 Dec 02 and on or about 17 May 03, steal thirty-three (33) Digital Video Discs and a watch, of a value less than \$500.00, the property of [REDACTED]. Plea: Guilty. Finding: Guilty.

Specification 2: Did, at or near Alamogordo, New Mexico, on or about 1 Jan 03, wrongfully appropriate \$184.00, by the presentment of check number 1187 drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty. Finding: Guilty.

Specification 3: Did, at or near Alamogordo, New Mexico, on or about 8 Jan 03, wrongfully appropriate \$60.00, by the presentment of check number 1198 drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 4: Did, at or near Alamogordo, New Mexico, on or about 11 Jan 03, wrongfully appropriate \$70.00, by the presentment of check number 1200 drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 5: Did, at or near Alamogordo, New Mexico, on or about 21 Jan 03, wrongfully appropriate \$85.00, by the presentment of check number 1201 drawn on the account of [REDACTED] the property of SrA [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 6: Did, at or near Alamogordo, New Mexico, on or about 26 Jan 03, wrongfully appropriate \$50.89, by the presentment of check number 1203 drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 7: Did, at or near Alamogordo, New Mexico, on or about 28 Jan 03, wrongfully appropriate \$61.72, by the presentment of check number 1204 drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 8: Did, at or near Alamogordo, New Mexico, on or about 8 Feb 03, wrongfully appropriate \$84.21, by the presentment of check number 1206 drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 9: Did, at or near Alamogordo, New Mexico, on or about 1 Mar 03, wrongfully appropriate \$184.00, by the presentment of a check drawn on the account of [REDACTED] the property of [REDACTED]. Plea: Guilty.
Finding: Guilty.

Specification 10: Did, at or near Alamogordo, New Mexico, on or about 4 Mar 03, wrongfully appropriate \$51.63, by the presentment of check number 1209 drawn on the account of [REDACTED]. The property of [REDACTED]. Plea: Guilty.
Finding: Guilty. Sentence adjudged by officer members on 22 Jul 03: Confinement for 163 days, reduction to E-1, and forfeiture of \$184.00 per month for six months.

26 Jan 01 - 15 Sep 01	RAF Molesworth	4	(CRO)
16 Sep 01 - 15 Sep 02	Holloman AFB	4	(Annual)
16 Sep 02 - 15 Sep 03	Holloman AFB	2	(Annual)REF

h. Awards & Decs: AFTR, AFLSAR, NDSM.

i. Stmt of Sv: TMS: (4) Yrs (2) Mos (26) Das
TAMS: (4) Yrs (1) Mos (29) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 14 Jul 04.

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

Issue 1: I would like to rejoin the Air Force. It was the best thing for me and I would like a second chance. The environment I'm in is not helping me be a productive citizen in the United State (sic). I know this because when I joined in 1999 the military showed me a better way of life and by me staying here I see myself hurting the people I truly love and I honestly don't know any other way to change but to rejoin the Air Force. I'm willing to enlist in any career field available (sic) to me or that I qualify for.

ATCH
None.

26AUG04/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 49TH FIGHTER WING (ACC)
HOLLOMAN AIR FORCE BASE, NEW MEXICO

FD 2004-00294

MEMORANDUM FOR [REDACTED]

FROM: 49 SFS/CC

NOV 19 2003

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for the commission of a serious offense. The authority for this action is AFI 36-3208, Section 5H, paragraph 5.52. If my recommendation is approved, your service will be characterized as honorable or as under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are as follows:

a. Special Court-Martial, 22 July 2003

- You did, at or near Alamogordo, NM, between on or about 10 December 2002 and on or about 17 May 2003, steal 33 Digital Video discs and a watch, of a value less than \$500.00, the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 1 January 2003, wrongfully appropriate \$184.00, by the presentment of check number 1187 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 8 January 2003, wrongfully appropriate \$60.00, by the presentment of check number 1198 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 11 January 2003, wrongfully appropriate \$70.00, by the presentment of check number 1200 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 21 January 2003, wrongfully appropriate \$85.00, by the presentment of check number 1201 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 26 January 2003, wrongfully appropriate \$50.89, by the presentment of check number 1203 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 28 January 2003, wrongfully appropriate \$61.72, by the presentment of check number 1204 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 8 February 2003, wrongfully appropriate \$84.21, by the presentment of check number 1206 drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 1 March 2003, wrongfully appropriate \$184.00, by the presentment of check drawn on the account of [REDACTED] the property of [REDACTED]

- You did, at or near Alamogordo, NM, on or about 4 March 2003, wrongfully appropriate \$51.63, by the presentment of check number 1209 drawn on the account of [REDACTED] the property of [REDACTED]

- For your misconduct, you were charged by Special Court-Martial. Officer members sentenced you to reduction to E-1, forfeiture of \$184 pay per month for six months, and confinement for 163 days. (Atch 1)

b. You were, at or near Holloman AFB, NM, on or about 22 March 2003, disrespectful to [REDACTED] 49 MMSS/CCF, your superior SNCO, by saying "I'll give you my ID, I'm a fucking cop...who the fuck do you think you are?" and that you "didn't give a fuck about a diamond" (referring to his status as a first sergeant) and that you would kick his ass, or using words to that effect. For your misconduct, you received a Letter of Reprimand w/UIF action dated 7 July 2003. (Atch 2)

c. You were, at or near Holloman AFB, NM, on or about 2 March 2003, derelict in the performance of your duties in that you were unprepared for duty. For your misconduct, you received a Letter of Reprimand w/UIF action dated 4 March 2003. (Atch 3)

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force, will probably be denied enlistment in any component of the armed forces, and any special pay, bonus, or education assistance funds may be subjected to recoupment.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] Area Defense Counsel, Building 222, Holloman AFB, phone 572-3473, at 1500 hours on 21 November 2003. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 24 Nov unless you request and receive an extension for good cause shown. I will forward your statements to the separation authority.

5. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

6. You have been scheduled for a medical examination. You must report to Flight Medicine, Bldg 17, at 0840 hours on 21 November 2003 for the examination.

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 the office of the Area Defense Counsel.

8. You must execute the attached receipt and return it to me immediately. This receipt does not admit or deny any of the allegations against you, nor does it mean that you agree with the discharge action. It is simply an acknowledgment that you have received this Letter of Notification.



Attachments:

1. Record of Trial, 22 July 2003
2. Letter of Reprimand, 7 July 2003
3. Letter of Reprimand, 4 March 2003