

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE AB	AFSN/SSAN ██████████
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%;">YES</td> <td style="width:95%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>	YES	No		X	
YES	No				
	X				

MEMBER SITTING					
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A94.53	INDEX NUMBER A67.50															
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>	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 16 Dec 2004	CASE NUMBER FD-2004-00325	
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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.

[Handwritten Signature]

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

FD-2004-00325

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 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 that would justify a change of discharge.

ISSUE: Applicant was discharged for a pattern of misconduct. The records indicated that applicant received two Articles 15, a traffic ticket, and pursuant to his guilty plea was convicted at Summary Court Martial. His offenses included two different occasions on which he assaulted foreign-nationals while assigned overseas, disorderly conduct, and illegal parking. The record reflects that after member's second Article 15, administrative discharge was contemplated but member's commander decided to give him another chance. Nevertheless, his misconduct continued and another assault occurred resulting in his court martial conviction. The Board also noted member entered the military service on a moral waiver due to pre-service criminal charges of resisting arrest / interfering with a police officer, for which applicant was fined and ordered to pay restitution. Member was referred to the Alcohol and Drug Abuse Rehabilitation and Treatment program during three different periods of time as it appeared most of his misconduct was alcohol-related. At the time of the discharge, member consulted counsel and submitted a statement in his own behalf requesting probation and rehabilitation, which was denied. The DRB opined that through the unit's extensive administrative and rehabilitative actions, the applicant had ample opportunities to change his negative behavior and was unwilling or unable to do so. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge was appropriate.

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]
[REDACTED]
(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Robins AFB, GA on 15 Jul 02 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Oct 80. Enlmt Age: 18 9/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-35, E-50, G-55, M-28. PAFSC: 4B051 - Bioenvironmental Engineering Journeyman. DAS: 11 May 00.

b. Prior Sv: (1) AFRes 23 Jul 99 - 12 Oct 99 (2 months 20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 13 Oct 99 for 4 yrs. Svd: 2 Yrs 9 Mo 2 Das, of which AMS is 2 yrs 8 months 20 days (excludes 13 days lost time).

b. Grade Status: AB - 10 May 02 (SCM, 10 May 02)
AMN - 25 Feb 02
AB - 21 Sep 01
AMN - 13 Apr 00

c. Time Lost: 10 May 02 thru 23 May 02 (13 days).

d. Art 15's: (1) 21 Sep 01, RAF Lakenheath, England - Article 116. You, did, at or near Cambridge, United Kingdom, on or about 1 Jul 00, participate in a breach of the peace by wrongfully assembling with A1C [REDACTED] Amn [REDACTED] [REDACTED] A1C [REDACTED] A1C [REDACTED] and Amn [REDACTED] for the purpose of assaulting passer-by, and in furtherance of said purpose did assault certain persons, to wit: [REDACTED] and [REDACTED]. Reduction to AB, forfeiture of \$521:00 pay per month for 2 months and 30 days extra duty. (No appeal) (No mitigation)

(2) 7 Feb 01, RAF Lakenheath, England - Article 134. You were, on or about 12 Jan 01, disorderly. Thirty days extra duty, and 30 days restriction. (No appeal) (No mitigation)

e. Additional: Traffic Ticket, 7 AUG 01 - Illegal parking.

f. CM: Summary Court-Martial - 10 May 02

CHARGE I: Plea: Not Guilty. Findings: Guilty.

Specification 1: Not Guilty.

Specification 2: Did, at or near Newmarket, United Kingdom, on or about 26 Jan 02, unlawfully strike ██████████ on his person with his fist. Plea: Guilty. Finding: Guilty. Sentence adjudged on 10 May 02: Confinement for 16 days, reduction to AB, and forfeiture of \$368.00 pay.

g. Record of SV: 13 Oct 99 - 12 Jun 01 RAF Lakenheath 4 (Initial)

h. Awards & Decs: AFOUA, NDSM, AFOSLTR.

i. Stmt of Sv: TMS: (2) Yrs (11) Mos (10) Das
TAMS: (2) Yrs (8) Mos (20) Das

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

NO ISSUES SUBMITTED.

ATCH

1. DD Form 214.
2. Training Certification.
3. Congratulatory Letter.
4. Enlisted Performance Report.
5. Eleven Character Reference.

14SEP04/ia



DEPARTMENT OF THE AIR FORCE
48TH FIGHTER WING (USAF)

28 MAY 02

MEMORANDUM FOR AB [REDACTED] 48 AMDS

FROM: 48 AMDS/CC

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 AFD 36-32 and AFI 36-3208, under the provisions of paragraph 5.50. If my recommendation is approved, your service will be characterized as general.
2. My reasons for this action are:
 - a. At or near Newmarket, UK, on or about 26 Jan 02, you unlawfully struck [REDACTED] with you fist. For this you were convicted by Summary Courts-Martial on 10 May 2002.
 - b. At or near RAF Lakenheath, UK, on or about 1 Jul 00, you participated in a breach of the peace by wrongfully assaulting passers-by. For this you received Nonjudicial Punishment, dtd 21 Sep 01.
 - c. At or near RAF Lakenheath, UK, on or about 12 Jan 01, you were disorderly. For this you received Nonjudicial Punishment, dtd 7 Feb 01.
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 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, CAPT [REDACTED], Area Defense Counsel, can be reached at DSN 312-297-1539. You may consult civilian counsel at your own expense.
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1600/31 MAY 02 unless you request, and I grant an extension for good cause. Any statement(s) you submit will be forwarded to the separation authority.
6. 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.

7. You must report to the Physical Exam section at the 48th Medical Group between 1300-1400 hrs Monday thru Thursday. At this time, an appointment at Family Practice will be scheduled for you. If you wear eyeglasses, you must bring them with you. If you are unable to make any of your scheduled appointments, you must contact the First Sergeant immediately.

8. The Privacy Act Statement covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in your unit orderly room.

9. The separation authority will make the findings and recommendations required under 10 U.S.C. 2005(g).

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

 Lt Col, USAF
Commander

Attachments:

1. Supporting Documentation:

- a. DD Form 1359, Result of Report of Trial, dated 10 May 2002
- b. AF Form 3070, dated 21 Sep 01
- c. AF Form 3070, dated 7 Feb 01

2. Receipt of Notification Letter