

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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HEARING DATE  14 Jun 2005		CASE NUMBER  FD-2004-00487																																								
<p style="font-size: small; text-align: center;">APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</p> <p>Case heard at Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>																																										
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INDORSEMENT				DATE: 6/22/2005																																						
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-2004-00487**

**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:** Applicant contends discharge was inequitable because it was based on one isolated incident in over 10 years of service with no other adverse action. The records indicated the applicant requested and received a general discharge in lieu of court-martial for disobeying a lawful order, dereliction of duty, making a false statement, and adultery. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be 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 SSGT) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Goodfellow AFB, TX on 11 Jul 97 UP AFI 36-3208, Chapt 4 (Triable by Court-Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 24 Oct 68. Enlmt Age: 17 10/12. Disch Age: 28 8/12. Educ: HS DIPL. AFQT: N/A. A-94, E-55, G-64, M-34. PAFSC: 1N451 - Signals Intelligence Analysis Journeyman. DAS: 24 Feb 95.

b. Prior Sv: (1) AFRes 8 Sep 86 - 17 Nov 86 (2 months 9 days) (Inactive).

(2) Enlisted as AB 18 Nov 86 for 4 yrs. Extended 25 Apr 89 for 5 months. Reenlisted as SRA 5 Aug 90 for 4 yrs. Extended 20 Sep 91 for 5 months. Svd: 7 yrs 6 months 29 days, all AMS. Amn - (APR indicates): 18 Nov 86-30 Dec 97. A1C-(APR indicates): 31 Dec 87-30 Dec 89. SrA - 18 Nov 89. Sgt-(EPR indicates) 31 Dec 89 - 30 Aug 93). SSgt 1 Apr 94. APRs: 9,9. EPRs: 3,4,5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 6 Apr 94 for 6 yrs. Svd: 3 Yrs 3 Mo 5 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 31 Aug 93 - 30 Aug 94 Misawa AB 5 (Annual)  
31 Aug 94 - 28 Dec 94 Misawa AB 5 (CRO)  
29 Dec 94 - 28 Dec 95 Goodfellow AFB 5 (Annual)  
29 Dec 95 - 28 Dec 96 Goodfellow AFB 5 (Annual)

h. Awards & Decs: AFCM W/1 BOLC, AFLSA W/1 BOLC, AFTR, AFOLTR W/1 BOLC, NDSM, NCOPMER, AFOUA W/1 BOLC, AFGCM W/1 BOLC.

i. Stmt of Sv: TMS: (10) Yrs (10) Mos (4) Das  
TAMS: (10) Yrs (7) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 5 Dec 04.  
(Change Discharge to Honorable)

Issue 1: I believe my discharge was inequitable because it was based one isolated incident in over 10 years of service with no other adverse action.

**ATCH**

1. Copies of Discharge Documents.

8FEB05/day

# APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved  
OMB No. 0704-0004  
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services and Communications Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

## PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

## 1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER		
[REDACTED]	E-5		[REDACTED]		

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
19970711	<input checked="" type="checkbox"/> HONORABLE	<input checked="" type="checkbox"/> CHANGE TO HONORABLE
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)	<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
316 TS, Goodfellow AB TX	<input type="checkbox"/> UNCHARACTERIZED	
	<input type="checkbox"/> OTHER (Explain)	

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

I BELIEVE MY DISCHARGE WAS INEQUITABLE BECAUSE IT WAS BASED ON ONE ISOLATED INCIDENT IN OVER 10 YEARS OF SERVICE WITH NO OTHER ADVERSE ACTION.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)

9. TYPE OF REVIEW REQUESTED (X one)

☒ CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.

☐ I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.

☐ I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)	b. TELEPHONE NUMBER (Include Area Code)
	c. E-MAIL
	d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print)

SPOUSE ☐ WIDOW ☐ WIDOWER ☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)	b. TELEPHONE NUMBER (Include Area Code)
[REDACTED]	c. E-MAIL
	d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. SIGNATURE - REQUIRED (Applicant or person in firm's name)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.)
[REDACTED]	20041205	FD-2004-00487



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS SECOND AIR FORCE (AETC)

FD 2004-00487



3 JUL 1997

MEMORANDUM FOR 17 TRW/CC

FROM: 2 AF/CC

721 Hangar Road, Suite 102  
Keesler AFB MS 39534-2804

SUBJECT: Administrative Discharge in Lieu of Trial by Court-Martial -  
[REDACTED], 316 TRS,  
Goodfellow AFB Texas

I have reviewed [REDACTED]'s request for discharge in lieu of trial by court-martial and find that it is in the best interest of the Air Force that it be approved. I hereby direct that [REDACTED] be separated from the Air Force pursuant to AFI 36-3208, Chapter 4, as soon as a report of medical examination indicating he is qualified for worldwide duty is entered in his records. I further direct that his service be characterized as under honorable conditions (general).

[REDACTED] USAF  
Commander

Attachment:  
Case File



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS SECOND AIR FORCE (AETC)



1 Jul 97

MEMORANDUM FOR CC

FROM: JA

SUBJECT: Legal Review - Request for Discharge in Lieu of Trial By Court-Martial-  
[REDACTED] 316 TRS,  
Goodfellow AFB TX

1. We have reviewed this request for discharge in lieu of trial by court-martial pursuant to the provisions of AFI 36-3208, Chapter 4, and find it is legally sufficient. It is forwarded to 2 AF/CC for final action as the general court-martial convening authority (GCMCA).

2. Background:

a. On 25 Jan 97, [REDACTED], a Military Training Manager (MTM) at Goodfellow AFB, reported that he had heard rumors that an off-base party had occurred in which underage trainees were drinking alcoholic beverages and that improper relationships between trainees and instructors may exist. In response, [REDACTED], the unit commander, appointed [REDACTED] to investigate the rumors.

b. The investigation produced a confession by the respondent and other incriminating evidence which led to the respondent being charged with disobeying a lawful order, dereliction of duty, making a false official statement, and adultery. On 5 May 97, 2 AF/CC referred the dereliction of duty, false official statement, and adultery specifications to trial by general court-martial.

c. On 5 Jun 97, the respondent requested discharge in lieu of court-martial. In his request, the respondent alleged he has information of illegal drug use by trainees and of an unprofessional relationship between another instructor and a student and asserted his willingness to cooperate with law enforcement authorities in investigating and prosecuting these other cases.

d. On 26 Jun 97, 17 TRW/CC forwarded the respondent's request for discharge in lieu of court-martial to 2 AF/CC with a recommendation that the request be approved and that the respondent's service be characterized as general (under honorable conditions).

### 3. Evidence for the Respondent:

a. The respondent is 28 years old, is married, and has two children. He entered active duty on 18 Nov 86. He has no history of prior documented disciplinary actions against him. He is entitled to wear, among other things, the Air Force Commendation, with one oak leaf cluster. He has an overall average of 4.72 (on a scale of 1-5) for his enlisted performance reports.

b. The respondent provided letters from himself, [REDACTED] (his defense counsel), [REDACTED]

[REDACTED] for consideration in making your decision to approve or disapprove his request for discharge. In addition, the respondent provided four Letters of Appreciation; two Letters of Commendation; two Letters of Indorsement; a citation for Senior Technician of the Month; the citations for his two Air Force Commendation Medal awards; four documents describing his accomplishments in SENSOR Olympics XV; and six photographs for your consideration prior to acting on his request. The respondent's submissions are located together at Tab 2 of the Case File. He consulted an attorney prior to submitting the request and has indicated his understanding that approval of the request may result in a UOTHC discharge.

4. Errors or Irregularities: There are no errors or irregularities noted, except the case file does not contain the required medical examination report showing whether the respondent is qualified for worldwide duty. This may be corrected by holding the execution of the discharge in abeyance until a properly completed medical examination report is added to the case file.

### 5. Discussion:

a. The respondent's commander believes, that in light of the high-profile case of [REDACTED], the respondent's request should be approved and his service should be characterized as general (under honorable conditions). The Commander, 17 TRW, agrees. We believe the request for discharge in lieu of court-martial should be approved, but do not concur with the recommended characterization of service. While the respondent's service has, at times, been very good, the serious nature of the instructor-student and false official statement offenses warrant an under other than honorable conditions (UOTHC) characterization. In addition, the respondent's statement in his request letter that he is willing to provide information of illegal drug use by trainees and of an unprofessional relationship between another instructor and a trainee is disturbing. As an instructor and Non-Commissioned Officer, the respondent, by these admissions, was derelict in his duties in not reporting this information to proper authorities at the instant he came into possession of such information. A UOTHC characterization is appropriate.



b As the GCMCA, 2 AF/CC may disapprove the request or approve the request and direct the respondent be discharged with a UOTHC. The respondent may be discharged with a service characterization as either honorable or general (under honorable conditions) only if 2 AF/CC gives specific reasons for such characterization.

6. Recommendation: That 2 AF/CC approve [REDACTED] request for discharge in lieu of trial by court-martial and direct that his service be characterized as UOTHC.

[REDACTED]  
[REDACTED], USAF  
Staff Judge Advocate

Attachment:  
Case File



DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND

FD2004-00487



26 JUN 1997

MEMORANDUM FOR 2 AF/CC

FROM: 17 TRW/CC

184 Fort Lancaster Avenue, Ste A  
Goodfellow AFB, TX 76908-4410

SUBJECT: Request for Discharge in Lieu of Court-Martial—  
316 TRS (AETC)

I have thoroughly reviewed the Request for Discharge in Lieu of Court-Martial submitted by  
316 TRS (AETC), processed under the provisions of  
AFI 36-3208, paragraph 4.4.2. Recommend request be approved with a General  
(Under Honorable Conditions) characterization.

Commander

Attachments:

1. Request for Discharge with Attachments, 5 Jun 97
2. Unit Commander's Recommendation, 16 Jun 97
3. Charge Sheet
4. Article 32 Report of Investigation



DEPARTMENT OF THE AIR FORCE  
USAF JUDICIARY AREA DEFENSE COUNSEL  
DYESS AIR FORCE BASE, TEXAS

FD2004-00487

5 June 1997

MEMORANDUM FOR 316 TRS/CC

FROM: [REDACTED]

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial

1. I request that I be discharged from the United States Air Force according to AFI 36-3208, Chapter 4, in lieu of trial by court-martial.
2. I understand the elements of the offenses with which I am charged. A summary of the evidence provided to me follows:
  - a. Charge Sheet (DD Form 458), dated 17 Apr 97
  - b. Report of Investigation Prepared by [REDACTED] 316 TRS, dated 17 Mar 97
  - c. Article 32 Investigating Officer's Report, dated 21 Apr 97
3. I understand that if this request is approved I may be discharged under other than honorable conditions, regardless of your recommendation. I am aware of the adverse nature of such a discharge and the possible consequences thereof. I know that it may deprive me of veterans' benefits.
4. I understand that if I were tried by a summary court-martial, I could not receive a punitive discharge from that court.
5. I have been afforded the opportunity to consult legal counsel. I was counseled by [REDACTED] my detailed military defense counsel.
6. I have received a Privacy Act Statement.

[REDACTED] USAF

The preceding statement by [REDACTED] was his voluntary decision, signed by him after I counseled him fully about:

- a. His rights and privileges and
- b. The possible effects of discharge under these circumstances.

[REDACTED]

USAF

Area Defense Counsel

Attachments:

1. [REDACTED] Supporting Statement
2. [REDACTED] Supporting Statement
3. Letters of Recommendation/Character Reference
4. Letters of Commendation and Appreciation
5. Awards and Commendations

5 June 1997

## MEMORANDUM FOR 316 TRS/CC

FROM: [REDACTED]

SUBJECT: Statement in Support of Request for Resignation in Lieu of Court-Martial

1. This document is written to accompany my submission of a request for discharge in lieu of court-martial, a submission which is one of the most difficult actions of my life. I wish to address several matters which I believe are pertinent to your consideration of my request. I also wish to request that I be granted at least a general (under honorable conditions) discharge, should my resignation be approved. Please consider the following matters as you deliberate upon my request.

2. I understand that the Air Force considers the allegations against me to be serious, especially in light of the widely-publicized case of Air Force [REDACTED]. However, I ask that these allegations be considered against my background of ten (10) years of faithful service to the Air Force and to my country. I respectfully request that consideration be given to my achievements and service during my tours at San Vito Air Station in Italy, Misawa Air Base in Japan and Goodfellow Air Force Base in Texas. While stationed at Misawa, I competed in the Air Intelligence Agency's 1994 SENSOR Olympics, the premier test of skills within the Air Force intelligence community. After placing first at my base, I went on to compete Air Force-wide and was awarded the Silver Medal. I am highly regarded in my career field, as indicated by the attached letters of character reference. During each of these tours, I was privileged to be able to make a significant contribution to my country, as suggested in the attached letters of commendation and appreciation.

3. I also ask that consideration be given to the fact that, while I am an instructor, I was not [REDACTED] instructor. She was in a different class, and I was in no position to influence her grades in any way. Furthermore, I have never been accused or even suspected of having an unprofessional relationship with any other student prior to the allegations made against me in this case.

4. I further ask that consideration be given to my willingness to provide the government with information which may be useful in the investigation of several other cases at Goodfellow AFB. As I indicated to you when we spoke personally on 11 Apr 97, I have knowledge of drug use by students in the 316<sup>th</sup> Training Squadron and an unprofessional relationship between an instructor and student in the 312<sup>th</sup> Training Squadron. I would be more than willing to cooperate with these squadrons and any other government agencies in the investigation of these incidents.

5. Ever since I graduated from high school, the Air Force has been the focus of my being, often to the detriment of my family. Service to my country has been the source of my greatest pride. Separation from the Air Force seems inconceivable. I have tried to give my best to the Air Force in all things that I have attempted. Deeply regretting the necessity for this letter, I hope that the matters I have raised will be considered in characterizing my discharge.

Respectfully submitted

[REDACTED]