

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NITIAL)

TYPE UOTH	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
NAME OF COUNSEL AND OR ORGANIZATION			
YES	No		
	X		

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

ISSUES	A94.05	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	CASE NUMBER
21 Jul 2005	FD-2005-00026

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

Names and votes will be made available to the applicant at the applicant's request.

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INDORSEMENT

DATE: 7/21/2005

TO:	FROM:
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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-2005-00026

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 too harsh. The records indicated the applicant received an Under Other Than Honorable Conditions discharge for committing two counts of vehicular homicide while being drunk and disorderly. 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]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr F.E. Warren AFB, WY on 15 Oct 00 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 11 Mar 78. Enlmt Age: 19 1/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-51, E-63, G-64, M-49. PAFSC: 3P031 - Security Forces Apprentice. DAS: 23 Jan 98.

b. Prior Sv: (1) AFRes 29 Apr 97 - 19 Aug 97 (3 months 21 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 Aug 97 for 4 yrs. Svd: 2 Yrs 1 Mo 26 Das, all AMS.

b. Grade Status: A1C - 20 Dec 98
Amn - 20 Feb 98

c. Time Lost: None.

d. Art 15's: None.

e. Additional: 13 MAY 99 - Two counts of vehicular homicide, drunk and disorderly, operating a vehicle while the alcohol concentration in his blood was .21 grams of alcohol per 100 milliliters of blood, reckless driving, failure to stop at a red traffic signal, and speeding.

f. CM: None.

g. Record of SV: 20 Aug 97 - 19 Apr 99 F.E. Warren AFB 4 (Initial)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (17) Das
TAMS: (2) Yrs (1) Mos (26) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 Jan 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

FD2005-00026

ATCH
None.

1MAR05/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I believe my discharge was harsh, because it was based on one incident in my 24 months of service. During my 24 months of service, I performed my duties as a SECURITY POLICE AIRMAN in the USAF. I regret my actions which caused myself to be discharged from the Air Force. I wish I would have never driven under the influence of Alcohol that night. If I could change that night, I would. Since May of 1999, I have been incarcerated for that incident. I'm not a bad or evil person, I was just a young man from rural Pennsylvania who made a stupid mistake. The main reason I am asking for my discharge to be upgraded is that with in the next two years I will be released from prison. And I plan on going to college when I am released, I would like to be eligible for the GI Bill which I paid for in its entirety to try to get some help to further my education. I plan on trying to study medicine. I know your probably going to deny my request to have my discharge upgraded. I hope you can understand why I tried.

Thank You For your TIME & HELP
TAKE CARE & GOD BLESS
SINCERLY

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

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

a. DATE (YYYYMMDD)

1-06-05

b. SIGNATURE

[Redacted Signature]

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY
Army Review Boards Agency
Support Division, St. Louis
ATTN: SFMR-RBR-SL
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY & MARINE CORPS
Naval Council of Personnel Boards
720 Kennon Street, S.E.
Rm. 309 (NDRB)
Washington Navy Yard, DC
20374-5023

AIR FORCE
SAF/MIBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD
Commandant (G-WPM)
2100 Second Street, S.W.
Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)

FD 2005-00026

31 AUG 99

MEMORANDUM FOR A1C [REDACTED]

FROM: 400 MS/CC

SUBJECT: Notification Memorandum - Board Hearing

1. I am recommending your discharge from the United States Air Force for commission of a serious offense according to AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.52.3. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. My reason for this action is: You attended a squadron function at C.B. & Pott's and a designated driver brought you back to your dormitory on base. A short time later you drove yourself back to C.B. & Pott's, where you continued to consume alcohol. Upon your departure from the establishment, personnel from within your squadron attempted to prevent you from operating your vehicle. You resisted and their attempts failed. You violated certain Wyoming state laws and articles under the Uniform Code of Military Justice (UCMJ), as follows:
 - a. You, at or near Cheyenne, Wyoming, on or about 13 May 99, committed two counts of aggravated vehicular homicide in violation of Wyoming Statute §6-2-106(b)(i), and on or about 24 Jun 99, you plead guilty to the same in the Laramie County District Court, First Judicial District.
 - b. You, were, at or near Cheyenne, Wyoming, on or about 13 May 99, drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces.
 - c. You, did at or near Cheyenne, Wyoming, on or about 13 May 99, operate a passenger vehicle, while the alcohol concentration in your blood was .21 grams of alcohol per 100 milliliters of blood.
 - d. You, did at or near Cheyenne, Wyoming, on or about 13 May 99, operate a passenger vehicle, in a reckless manner by failing to stop at a flashing red traffic signal on College Drive (Wyoming Highway 212).
 - e. You, did at or near Cheyenne, Wyoming, on or about 13 May 99, operate a passenger vehicle, in a reckless manner by exceeding the posted speed limit of 40 m.p.h., on College Drive (Wyoming Highway 212).
 - e. You, did at or near Cheyenne, Wyoming, on or about 13 May 99, operate a passenger vehicle, in a reckless manner by failing to stop at a red traffic signal on Dell Range Boulevard.
3. These actions 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 GCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subjected to recoupment.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board hearing.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements on 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 at the Area Defense Counsel's Office, Bldg. 292, 773-3248, has been obtained to assist you. An appointment has been scheduled for you to consult an attorney on 31 Aug 99 at 1345 hrs. Instead of the appointed counsel, you may have another, if the lawyer you request is available in the active military counsel. You also have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

6. Confer with your counsel and reply, in writing, within seven workdays, 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 attached hereto for your use.

8. If you request a board and you 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 findings and recommendations required under 10 U.S.C. 2005(g).

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

[Redacted Signature]

31 Aug 99

1 Lt Col, USAF
Commander, 400th Missile Squadron

Attachments:

- 1. Order for Pre-Sentence Report, dated 28 Jun 99
- 2. Wyoming Highway Patrol Report, dated 19 May 99