

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

[REDACTED]

GRADE

AB

AFSN/SSAN

[REDACTED]

TYPE GEN

X

PERSONAL APPEARANCE

RECORD REVIEW

COUNSEL

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES No

X

MEMBER SITTING

VOTE OF THE BOARD

HON	GEN	UOTHC	OTHER	DENY
X*+				
X*+				
X*+				
X*+				
X*+				

ISSUES A94.06

INDEX NUMBER A67.10

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

24 Feb 2005

CASE NUMBER

FD-2005-00030

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

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

\* CHANGE RE CODE

+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

INDORSEMENT

DATE: 2/24/2005

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-2005-00030**

**GENERAL:** The applicant appeals for upgrade of discharge to honorable, change the reason and authority for the discharge, and change the reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) and accepted this right. He appeared on 24 Feb 05 with his father.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

**FINDINGS:** The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an inequity that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's discharge, reason and authority for discharge and RE Code inequitable.

**ISSUE:** Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 for making a false official statement and for going AWOL. In addition, he received one Letter of Reprimand, one Record of Individual Counseling and 10 AETC Form 341s (four of which were repeats) for various acts of misconduct. The DRB opined that because of the omitted technical schools on the Commanders recommendation, the non-advisement of his rights on the AF Form 1168 and the late LOR, that these actions constituted an impropriety in the discharge.

**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was not consistent with the procedural and substantive requirements of the discharge regulation and the applicant was not provided full administrative due process. In view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. Also, the RE Code should be changed to 3K under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

FD2005-00030A

[REDACTED]  
[REDACTED]  
(Former A1C) (HGH A1C) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a Gen Dish fr Kirtland AFB, NM on 4 Apr 03. UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 16 Jun 04.

b. The AFDRB reviewed case on 25 Aug 04 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 18 Jan 05. (Change Discharge to Honorable & Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

Atch

1. Applicant's Issues.

2. Statement from Major [REDACTED] 1 May 04 With 16 Attachments.

19JAN05/ia

18 JAN 2005

FD 2005-00030

<p align="center"><b>APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES</b> <i>(Please read instructions on Pages 3 and 4 BEFORE completing this application.)</i></p>		<p align="right">Form Approved OMB No. 0704-0004 Expires Aug 31, 2006</p>	
<p>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 Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. 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.</p> <p><b>PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.</b></p>			
<p><b>PRIVACY ACT STATEMENT</b></p>			
<p><b>AUTHORITY:</b> 10 U.S.C. 1553; E.O. 9397.  <b>PRINCIPAL PURPOSE(S):</b> To apply for a change in the characterization or reason for military discharge issued to an individual.  <b>ROUTINE USE(S):</b> None.  <b>DISCLOSURE:</b> 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.</p>			
<p><b>1. APPLICANT DATA</b> <i>(The person whose discharge is to be reviewed).</i> <b>PLEASE PRINT OR TYPE INFORMATION.</b></p>			
<p><b>a. BRANCH OF SERVICE</b> <i>(X one)</i></p> <p><input type="checkbox"/> ARMY    <input type="checkbox"/> MARINE CORPS    <input type="checkbox"/> NAVY    <input checked="" type="checkbox"/> AIR FORCE    <input type="checkbox"/> COAST GUARD</p>		<p><b>d. SOCIAL SECURITY NUMBER</b></p> <p>[REDACTED]</p>	
<p><b>b. NAME</b> <i>(Last, First, Middle Initial)</i></p> <p>[REDACTED]</p>		<p><b>c. GRADE/RANK AT DISCHARGE</b></p> <p align="center">E-1/AB</p>	
<p><b>2. DATE OF DISCHARGE OR SEPARATION</b> <i>(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)</i></p> <p align="center">20030404</p>		<p><b>4. DISCHARGE CHARACTERIZATION RECEIVED</b> <i>(X one)</i></p> <p><input type="checkbox"/> HONORABLE</p> <p><input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS</p> <p><input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS</p>	
<p><b>3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION</b></p> <p>58th TRS, Kirtland AFB, NM</p>		<p><b>5. BOARD ACTION REQUESTED</b> <i>(X one)</i></p> <p><input checked="" type="checkbox"/> CHANGE TO HONORABLE</p> <p><input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS</p> <p><input type="checkbox"/> CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i></p> <p><input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:</p>	
<p><b>6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST</b> <i>(Continue in Item 14. See instructions on Page 3.)</i></p> <p>I respectfully ask that my general discharge be changed to honorable and my reenlistment code be changed so I can re-join the United States Air Force. The justification for this request is I was punished for preventing a fellow Air Force member from harming himself. Also, my former commander falsified my discharge paperwork, unlawfully withheld my contractual promotion to E-3 (A1C), lied twice to the Air Force Congressional Liaison's office and falsified an UCMJ Article 15. Furthermore, my UCMJ</p>			
<p><input checked="" type="checkbox"/> <b>7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON</b> <i>(YYYYMMDD)</i> 20040904  <b>AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.</b></p>			
<p><b>8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE:</b> <i>(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)</i></p> <p>Several documents were sent in with previous case (Docket # FD-2004-00175). Please advise if I need to re-submit these documents or make copies.</p>			
<p><b>9. TYPE OF REVIEW REQUESTED</b> <i>(X one)</i></p> <p><input type="checkbox"/> CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR <i>(counsel/representative)</i> WILL NOT APPEAR BEFORE THE BOARD.</p> <p><input checked="" type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.</p> <p><input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO <i>(enter city and state)</i> <small>(NOTE: The Navy Discharge Review Board does not have a traveling panel.)</small></p>			
<p><b>10.a. COUNSEL/REPRESENTATIVE</b> <i>(If any) NAME</i> <i>(Last, First, Middle Initial)</i> AND ADDRESS  <i>(See Item 10 of the instructions about counsel/representative.)</i></p> <p>[REDACTED]</p>		<p><b>b. TELEPHONE NUMBER</b> <i>(Include Area Code)</i></p> <p>[REDACTED]</p>	
<p><b>c. E-MAIL</b></p> <p>[REDACTED]</p>		<p><b>d. FAX NUMBER</b> <i>(Include Area Code)</i></p> <p>[REDACTED]</p>	
<p><b>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 <i>(print)</i> and relationship by marking a box below.</b></p> <p><input type="checkbox"/> SPOUSE    <input type="checkbox"/> WIDOW    <input type="checkbox"/> WIDOWER    <input type="checkbox"/> NEXT OF KIN    <input type="checkbox"/> LEGAL REPRESENTATIVE    <input type="checkbox"/> OTHER <i>(Specify)</i></p>			
<p><b>12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE</b>  <i>(Forward notification of any change in address.)</i></p> <p>Wright-Patterson AFB, OH 45433-1313</p>		<p><b>b. TELEPHONE NUMBER</b> [REDACTED]</p> <p><b>c. E-MAIL</b> [REDACTED]</p> <p><b>d. FAX NUMBER</b> <i>(Include Area Code)</i> N/A</p>	
<p><b>13. CERTIFICATION.</b> 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. <i>(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.)</i></p>		<p align="right"><b>CASE NUMBER</b>  <i>(Do not write in this space.)</i></p> <p align="center">FD 2005 - 00030</p>	
<p><b>a. SIGNATURE - REQUIRED</b> <i>(Applicant or person in Item 11 above)</i></p> <p>[REDACTED]</p>		<p><b>b. DATE SIGNED - REQUIRED</b> <i>(YYYYMMDD)</i></p> <p align="center">20050117</p>	

Received Time Jan. 18. 12:41PM

FD 2005-00030

**14. CONTINUATION OF ITEM 6, ISSUES (If applicable)**

Article 31 rights were violated twice and my second amendment right to own a firearm was violated. My punishment was much harsher than other airmen at Kirtland AFB during this time. I was administered a Letter of Reprimand (LOR) for an alleged event witnessed by "another first sergeant from another squadron" that occurred 45 days before I was shown the LOR. Additionally, the person who signed the LOR did so two days before I signed. This person never spoke to me about this event. In order for me to dispute this LOR, I would have to forgo my Thanksgiving 2002 leave and remain at Kirtland AFB, NM. I was forced to sign this LOR or I could not sign my leave form and go on leave.

**15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)**

**16. REMARKS (If applicable)**

I emphatically state that I made a mistake by preventing my fellow airman from hurting himself. If I only had not tried to help this person from committing suicide, I would be in the Air Force today. I, like every other able bodied person, want to fight the war on terrorism. If I'm not allowed back into the active duty component of the Air Force, I will join the Air Guard or the National Guard. However, I cannot pursue this dream with my current discharge on file. Again, I only wish that my fellow airman had not come to me for help or that I simply walked away.

Via e-mails from SSgt [REDACTED] and Col [REDACTED] my personal appearance before the DRB is tentatively scheduled for 24 Feb 05 at 0700.

**MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.**

<p align="center"><b>ARMY</b></p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See <a href="http://arba.army.pentagon.mil">http://arba.army.pentagon.mil</a>)</p>	<p align="center"><b>NAVY AND MARINE CORPS</b></p> <p>Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>
<p align="center"><b>AIR FORCE</b></p> <p>Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p align="center"><b>COAST GUARD</b></p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p>

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

[REDACTED]  
[REDACTED]  
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Kirtland AFB, NM on 4 Apr 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 14 Mar 83. Enlmt Age: 18 10/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-84, E-80, G-84, M-84. PAFSC: 1A711 - Aerial Gunner. DAS: 25 Jul 02.

b. Prior Sv: (1) AFRes 31 Jan 02 - 5 Mar 02 (1 month 3 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 6 Mar 02 for 6 yrs. Svd: 1 Yrs 1 Mo 0 Das, all AMS.

b. Grade Status: AB - 10 Feb 03 (Article 15, 10 Feb 03)  
Amn - 6 Sep 02 (Reason unknown)  
A1C - 19 Apr 02

c. Time Lost: None.

d. Art 15's: (1) 10 Feb 03, Kirtland AFB, NM - Article 107. You did, on or about 22 Jan 03, with intent to deceive, make to TSgt [REDACTED] an official statement, to wit: You went to see friends that were in town and did not return to your room until Sunday around 1300 hours, which statement was totally false, and was then known by you to be so false. Article 86. You did, on or about 17 Jan 03, without authority, absent yourself from your unit at which you were required to be, to wit: 58<sup>th</sup> Training Squadron, and did remain so absent until on or about 20 Jan 03. Reduction to AB, forfeiture of \$575.00 pay per month for 2 months. (Appeal/Denied) (No mitigation)

e. Additional: AETC 341, 27 JAN 03 - Failed room inspection.  
AETC 341, 26 JAN 03 - Playing music excessively loud in the dormitory.  
AETC 341, 13 JAN 03 - Bad attitude.  
AETC 341, 13 JAN 03 - Failure to go.  
LOR, 25 NOV 03 - Underage drinking.  
AETC 341, 27 SEP 02 - Being on a restricted floor in the dormitory, and not having AETC 341 on person.

RIC, 24 SEP 02 - Damaging government property.  
AETC 341, 6 SEP 02 - No phase card on person.  
AETC 341, 5 SEP 02 - Late for mandatory formation.  
AETC 341, 6 SEP 02 - No AETC 341 on person.  
AETC 341, 6 SEP 02 - No military ID card on person.  
AETC 341, 5 AUG 02 - Late for formation, no AETC 341 on person, no phase card on person, and no military ID card on person.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: NDSM.

i. Stmt of Sv: TMS: (1) Yrs (2) Mos (5) Das  
TAMS: (1) Yrs (1) Mos (0) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 2 Apr 04.

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

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Character References.
3. Copy of Discharge Documents.
4. Six Training Certificates.
5. Congressional Response.
6. Four AF Forms 1168.
7. 377 ABW/JAD Email Correspondence.
8. News Article.
9. Congressional Correspondence.
10. Bill of Sale.
11. 377<sup>th</sup> Comptroller Squadron Commander Memorandum.
12. Memorandum For 377 ABW/IG.
13. Leave and Earnings Statement.
14. DD Form 214.

16JUN04/ia



DEPARTMENT OF THE AIR FORCE

58 TRAINING SQUADRON (AETC)  
KIRTLAND AIR FORCE BASE NEW MEXICO

FD 2005-00030

MEMORANDUM FOR AB [REDACTED]

17 Mar 03

FROM: 58 TRS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49. If my recommendation is approved, your service will be characterized as Honorable or General (Under Honorable Conditions). I am recommending that your service be characterized as General (Under Honorable Conditions).

2. My reasons for this action are:

- a. On 5 Aug 02, you received an AETC Form 341, Discrepancy Report, for being late for Physical Conditioning (PC) and not having the required AETC Forms 341, phase card or military ID card on your person. (Atch A)
- b. On 6 Sep 02, you received four AETC Forms 341, Discrepancy Reports, for being late for PC and not having the required AETC Forms 341, phase card or military ID card on your person. (Atch B)
- c. On 24 Sep 02, you received a Record of Individual Counseling (RIC) for destroying government property. (Atch C)
- d. On 27 Sep 02, you received two AETC Forms 341, Discrepancy Reports, for breaking phase rules by entering the 2nd floor of the dormitory and not having the required AETC Forms 341 on your person. (Atch D)
- e. On 25 Nov 02, you received a Letter of Reprimand (LOR) for drinking under age. (Atch E)
- f. On 13 Jan 03, you received two AETC Forms 341, Discrepancy Reports, for missing PC and displaying an attitude after being asked for an AETC Form 341. (Atch F)
- g. On 26 Jan 03, you received an AETC Form 341, Discrepancy Report, for violating phase rules by possessing and playing a stereo. (Atch G)
- h. On 27 Jan 03, you received an AETC Form 341, Discrepancy Report, for failing a dorm room inspection. (Atch H)



i. On 28 Feb 03, you received an Article 15, UCMJ, for being AWOL from 17 Jan 03 to 20 Jan 03 and making a false official statement. (Atch I)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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. Special pay, bonuses, or education assistance funds may be subject to recoupment.

4. 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 Captain [REDACTED], at building 20361, 8201 K St. ext. 6-5553, on \_\_\_\_\_ at \_\_\_\_\_ hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within 3 workdays from today unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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

7. You will complete a medical examination at the 377th Medical Group (Family Medicine) on \_\_\_\_\_ at \_\_\_\_\_.

8. 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.

[REDACTED]  
[REDACTED] USAF  
Commander

- Attachments:
- Supporting Documents
- Airman's Acknowledgment