

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

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

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

ISSUES	A94.05	INDEX NUMBER	A67.50	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	
02 Aug 2005	FD-2005-00141	

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.

INDORSEMENT

DATE: 8/2/2005

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-2005-00141

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

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 and change of reason and authority for discharge are 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 two Article 15s for drinking under age, wrongfully tampering with his military identification card, DWI, and making a false official statement. The applicant states the discharge was inequitable because it was based on an event that happened in a foreign country and was never settled. This issue is without merit. Regardless of where the event took place, the fact remains that the applicant was involved in an accident involving alcohol and received punishment concerning an alcohol related event the year prior. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. 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

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Hurlburt Field, FL on 18 Aug 98 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 5 Jun 76. Enlmt Age: 19 1/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-80, E-73, G-50, M-67. PAFSC: 2F051 - Fuels Journeyman. DAS: 1 Aug 96.

b. Prior Sv: (1) AFRes 31 Jul 95 - 20 Feb 96 (6 months 20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 Feb 96 for 4 yrs. Svd: 2 Yrs 5 Mo 29 Das, all AMS.

b. Grade Status: Amn - 18 Jun 98 (Article 15, 18 Jun 98)
A1C - 17 Feb 98
Amn - Unknown
AB - 17 Oct 96 (Article 15, 17 Oct 96)
Amn - 21 Aug 96

c. Time Lost: None.

d. Art 15's: (1) 18 Jun 98, Hurlburt Field, FL - Article 107, You did, at or near Brindisi, Italy, on or about 26 Feb 98, with intent to deceive, make to military police, an official statement, to wit: that [REDACTED] was the driver of a Fiat that was involved in an accident, and that you were not the driver of the said vehicle, which statement was totally false in that you were the driver of the said vehicle, and was then known by you to be so false. Article 111. You, at or near Brindisi, Italy, on or about 26 Feb 98, did physically control a vehicle, to wit: a passenger car, while the alcohol in your breath was .10 grams or more of alcohol per 210 liters of breath as shown by chemical analysis. Reduction to Airman, and 45 days extra duty. (No appeal) (No mitigation)

(2) 17 Oct 96, Hurlburt Field, FL - Article 92. You, who knew of your duties, on or about 20 Sep 96, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic

beverages while under the age of 21, which is the minimum age for the legal consumption of alcoholic beverages in the state of Florida, as it was your duty to do. Article 81. You did, on or about 15 Sep, conspire with Amn [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: the wrongful tampering with your military identification card by changing the date of birth, and in order to effect the object of the conspiracy you borrowed from Amn [REDACTED] his military identification card. Reduction to AB, and forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

- e. Additional: None.
- f. CM: None.
- g. Record of SV: 21 Feb 96 - 20 Oct 97 Hurlburt Field 3 (Initial)
- h. Awards & Decs: AFTR, AFOUA.
- i. Stmt of Sv: TMS: (3) Yrs (0) Mos (20) Das
TAMS: (2) Yrs (5) Mos (29) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Mar 05.
(Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

Issue 1: My discharge was inequitable because it was based on an event that happened in a foreign country and was never settled. There were conflicting stories between the Italian police and the SPs. No parties involved ever pled guilty to the event however we were punished and then kicked out w/a (sic) general discharge-under honorable conditions. I formally request that my discharge be changed to honorable on the basis of my service and accomplishments since my duty.

I also request that the narrative reason for discharge be changed to blank or something other than pattern of misconduct because of the above stated reason. I realize that I did get into trouble while enlisted however (sic) the straw that broke the camel's back was not proved or warranted.

ATCH

- 1. University Transcript.
- 2. Employment Resume.

16MAY05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 16th SPECIAL OPERATIONS WING (AFSOC)

FD 1005-00141

3 Aug 98

MEMORANDUM FOR AMN [REDACTED]

FROM: 16 SUPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct, more specifically, for A Pattern of Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, section H, paragraph 5.50. If my recommendation for discharge is approved, your service will be characterized as honorable or general. I am recommending your service be characterized as general.
2. My reasons for this action are based on the following:
 - a. You did, on or about 15 Sep 96, wrongfully tamper with your military identification card by changing the date of birth, for which you received an Article 15, dated 7 Nov 96, and the establishment of an Unfavorable Information File (UIF).
 - b. You did, on or about 20 Sep 96, wrongfully consume alcoholic beverages while under the legal drinking age of 21, for which you received an Article 15, dated 7 Nov 96, and the establishment of an Unfavorable Information File (UIF).
 - c. You did, on or about 26 Feb 98, make a false official statement to the military police, for which you received an Article 15, dated 30 Jul 98.
 - d. You did, on or about 26 Feb 98, operate a motor vehicle while you were intoxicated, for which you received an Article 15, dated 30 Jul 98.
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. If you are discharged, you will be ineligible for reenlistment in the Air Force.
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 the Area Defense Counsel, Hurlburt Field, FL, Bldg 90042, 884-5216/5217, on 4 AUG 98 at 1300 hours. 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 within 3 work days 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 in your own behalf, your failure will constitute a waiver of your right to do so.

7. You are scheduled for a medical examination and you should report to the Hurlburt Clinic at 0920 hrs on 7 Aug 98 for the examination.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974. A copy of AFI 36-3208 is available for your use at the unit orderly room.



Maj, USAF

Commander

Attachments:

Documents Supporting Basis for Discharge

1. AF Form 3070, dtd 7 Nov 96
2. AF Form 3070, dtd 30 Jul 98
3. Airman's receipt of notification memorandum