

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

TYPE GEN		PERSONAL APPEARANCE	X	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	A92.15 A92.03 A94.05	INDEX NUMBER	A72.00 A67.90	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	
31 Aug 2005	FD-2005-00150	

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.

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INDORSEMENT		DATE: 8/31/2005
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-2005-00150

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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh and based on force shaping. The records indicated the applicant received a Summary Court-Martial conviction for larceny, hindering apprehension, and false-official statements; a Letter of Reprimand for underage drinking and a traffic ticket for a minor in possession of alcohol. 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.

Issue 2. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Grand Forks AFB, ND on 12 Aug 04 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 20 Jun 83. Enlmt Age: 18 3/12. Disch Age: 21 1/12. Educ: HS DIPL. AFQT: N/A. A-89, E-88, G-82, M-83. PAFSC: 1A031 - In Flight Refueling Apprentice. DAS: 27 May 03.

b. Prior Sv: (1) AFRes 1 Oct 01 - 15 Jul 02 (9 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Jul 02 for 4 yrs. Svd: 2 Yrs 0 Mo 28 Das, of which AMS is 2 yr 0 months 16 days (excludes 12 days lost time).

b. Grade Status: AB - 30 Jun 04 (Summary Court Martial, 30 Jun 04)
Amn - 28 Jan 03

c. Time Lost: 30 Jun 04 - 12 Jul 04 (12 days)

d. Art 15's: None.

e. Additional: LOR, 24 JUN 03 - Traffic ticket for Minor in Possession of alcohol.

f. CM: Summary Court Martial - 30 Jun 04

CHARGE I: Article 78 Plea: Guilty. Finding: Guilty.

Specification: In that Airman [REDACTED], United States Air Force, 906th Air Refueling Squadron, knowing that at or near Grand Forks County, North Dakota, between on or about 1 Jul 03 and on or about 30 Jul 03, Airman [REDACTED] had committed an offense punishable by the Uniform Code of Military Justice, to wit: larceny, did, at or near Grand Forks County, North Dakota between on or about 1 Jul 03 and on or about 30 Jul 03, in order to hinder the apprehension of the said Airman [REDACTED] assist the said Airman [REDACTED] by unloading a stolen ATV onto a truck, help the said Airman [REDACTED] discard a stolen trailer into a field, help the said Airman [REDACTED] store a stolen ATV in a garage, and

help the said Airman [REDACTED] clean the stolen ATV.

CHARGE II: Article 107. Plea: Guilty. Finding: Guilty.

Specification: In that Airman [REDACTED], United States Air Force, 906th Air Refueling Squadron, did at or near Grand Forks County, North Dakota, on divers occasions between on or about 10 Sep 03 and on or about 20 Nov 03, with intent to deceive, make to SSgt [REDACTED] official statements, to wit: I loaned [REDACTED] money to purchase the four-wheeler, or words to that effect, which statements were totally false and were then known by the said Airman [REDACTED] to be so false. Sentence adjudged on 30 June 04: Fifteen days confinement, reduction to AB, and forfeiture of one half months pay for one month.

g. Record of SV: 16 Jul 02 - 16 Mar 04 Grand Forks AFB 3 (Initial)REF

h. Awards & Decs: AM, NDSM, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (10) Mos (0) Das
TAMS: (2) Yrs (0) Mos (16) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 6 Apr 05.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Article 15.
3. Air Medal.
4. Award of Air Crew Badge.
5. Certificate of Completion.
6. Six Training Certificates.
7. Four Character References.

19MAY05/ia

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

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

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

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.

Form section 1: APPLICANT DATA. Includes fields for Branch of Service (Air Force), Name, Grade/Rank (E-2), Social Security Number, Date of Discharge (20040812), Discharge Characterization (General/Under Honorable Conditions), and Board Action Requested (Change Narrative Reason for Separation: Force Shaping).

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

I am requesting to change the characterization of my discharge because of the circumstances that occurred at that time. The way this started is my commander told me that I was being issued an article 15 for an incident that I was part of.

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.)

I have sent documentation showing the article 15 I was served that was taken back when I turned in my response.

9. TYPE OF REVIEW REQUESTED (X one)

Form section 9: TYPE OF REVIEW REQUESTED. Includes checkboxes for 'Conduct a record review' and 'Wish to appear at a hearing'.

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) and relationship by marking a box below.

Form section 11: APPLICANT MUST SIGN IN ITEM 13.a. BELOW. Includes checkboxes for Spouse, Widow, Widower, Next of Kin, Legal Representative, and Other.

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)

b. TELEPHONE NUMBER (Include Area Code)

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.)

CASE NUMBER (Do not write in this space.)

a. SIGNATURE REQUIRED (Applicant or person in Item 11 above)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

20050406

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

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

16. REMARKS (if applicable)

[Faint, mostly illegible text in the remarks section]

14. CONTINUATION OF ITEM 6, ISSUES (if applicable)

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

When I went into his office with my response he read it and then told me that he was withdrawing the article is and recommending me for a summary court martial. I feel that the reason for his actions were strongly influenced if not solely based on the force sleeping that was occurring at the time of this incident. I believe that I was a very good airman, always doing my best to perform the job of a boom operator. I was a top performer going through training and when I was almost complete I received news that my brother was dying with cancer when I asked for time off to go see him my chain of command didn't allow it. They said they needed me to finish training to deploy. Once I was deployed I performed well above what was required and earned an Air Medal. When I came back from my deployment everything came to light and I dealt with the consequences with the way things happened I would normally believe that if force sleeping wouldn't have been occurring I would not have been charged.

I have also included my training certificates to include the award of my enlisted aircrew badge, FTA training completion of water survival courses, completion of boom operator initial qualification, combat survival training, enlisted aircrew undergraduate course, basic military training and initial crew resource management. I have sent a copy of the Air Medal that I earned as well as character statements I used for my behalf at the time of my summary court martial. I have also included a letter about myself

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 319TH AIR REFUELING WING (AMC)
GRAND FORKS AIR FORCE BASE, NORTH DAKOTA



MEMORANDUM FOR AB [REDACTED]

9 July 2004

FROM: 906 ARS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as Honorable, Under Honorable Conditions (General), or Under Other than Honorable Conditions (UOTHC) Discharge. I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reason for this action is:

a. You did, between on or about 1 July 2003 to on of about 30 July 2003, in order to hinder the apprehension of Amn [REDACTED] assist Amn [REDACTED] by unloading a stolen ATV onto a truck, help Amn [REDACTED] discard a stolen trailer into a field, store a stolen ATV in a garage, and clean the stolen ATV. You also did, between on or about 10 September 200 to on or about 20 November 2003, with the intent to deceive, make to Staff Sergeant [REDACTED] an official statement, to wit: I loaned [REDACTED] money to purchase the four-wheeler, or words to that effect, which statement was totally false and were then known by you to be so. For these acts of misconduct, your were court-martialed on 30 June 2004. (Attachment A)

b. You were, between December 2002 to on or about May 2003, derelict in the performance of your duties in that you willfully failed to refrain from consuming alcohol while under the legal age of 21, as it was your duty to do. For this act of misconduct, you received a ticket for "Minor in Possession" from the state of Texas and a Letter of Reprimand (LOR), dated 24 June 2003. An Unfavorable Information File (UIF) was established on 28 June 2003, and the LOR was placed in the UIF. (Attachment B)

3. 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 345 Steen Blvd, on 9 July 2004, at 1400 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 14 July 2004 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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5. 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.
6. You have been scheduled for a medical examination. You must report to 319th Medical Group, 1599 J Street, Building 109 on 16 July 2004, at 0900 hours for the examination.
7. 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 at Legal Office.
8. Execute the attached acknowledgment and return it to me immediately.



Lt Col, USAF
Commander

Attachments:

1. Supporting Documents
 - a. AF Form 1359, dated 30 Jun 04 (2 pgs) and AF Form 2329, dated 8 July 04
 - b. LOR, dated 24 June 03 (3 pgs)
2. Privacy Act Statement
3. Acknowledgement of Receipt of Notification Memorandum
4. Discharge Under AFI 36-3208 Memorandum
5. Personnel Information