

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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TYPE GEN		PERSONAL APPEARANCE	X	RECORD REVIEW																																					
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<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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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

**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 two Article 15s and a Vacation action under the UCMJ for making a false official statement, writing bad checks, and wrongfully leaving the scene of an accident. In addition, he received two Letters of Reprimand, one Letter of Counseling and one Memorandum for Record for various acts of misconduct to include financial irresponsibility, dereliction of duty, being late for duty and falsifying an official government document. 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. 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. The applicant also submitted his post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade. Finally, the applicant stated that he was told his discharge would be automatically upgraded after 6 months. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

**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 AMN) (HGH SRA)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Tinker AFB, OK on 05 Sep 99 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Nov 74. Enlmt Age: 17 8/12. Disch Age: 24 9/12. Educ: HS DIPL. AFQT: N/A. A-82, E-69, G-70, M-76. PAFSC: 3N052 - Radio and Television Broadcasting Journeyman. DAS: 22 Nov 96.

b. Prior Sv: (1) AFRes 29 Jul 92 - 01 Dec 92 (4 months 3 days) (Inactive).

(2) Enlisted as AB 02 Dec 92 for 4 yrs. Extended 04 Aug 94 for 1 month. Svd: 3 yrs 1 month 19 days, all AMS. AMN - 02 Jun 93. A1C - 02 Apr 94. SrA - 02 Dec 95. EPRs: 4,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 22 Jan 96 for 4 yrs. Svd: 03 Yrs 07 Mo 14 Das, all AMS.

b. Grade Status: Amn - 23 Jun 99 (Article 15, 23 Jun 99)  
A1C - 04 Jun 99 (Vacation of Article 15, 04 Jun 99)

c. Time Lost: None.

d. Art 15's: (1) 23 Jun 99, SHAPE, Belgium - Article 134. You, were, the driver of a vehicle at the time of an accident in which said vehicle was involved, and having knowledge of said accident, did, at or near Mons, Belgium, on or about 18 Oct 98, wrongfully leave the scene of the accident without making your identity known. Reduction to Airman, and restriction to the limits of SHAPE compound, Mons, Belgium for 60 days. (No appeal) (No mitigation)

(2) 04 Jun 99, Vacation, SHAPE, Belgium - Article 134. You did, at Shape, Belgium, on divers occasions between on or about 5 Feb 99 to on or about 12 Mar 99, make and utter to Benelux Finance Office, Disbursing Office certain checks, in words and figures as follows, to wit: nine hundred twenty five dollars, in US currency, for the purpose of cashing six personel checks, and did thereafter dishonorably fail to maintain sufficient

funds in the Navy Federal Credit Union for payment of such checks in full upon its presentment for payment. Reduction to A1C. (No appeal) (No mitigation)

- (3) 14 Dec 98, SHAPE, Belgium - Article 107. You, did, at Shape, Belgium, on or about 21 Sep 98, with intent to deceive, make to the Financial Management Office, an official statement, to wit: by signing the Remission/Waiver Application Form stating you were "not aware of debt," which statement was totally false, and was then known by you to be so false. Suspended reduction to A1C. Forfeiture of \$615.00 pay per month for 2 months, and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR, 06 OCT 97 - Late for duty and falsifying an official government document.

LOR, 06 OCT 97 - Financial irresponsibility.

MFR, Undated - Dereliction of duty.

LOC, 05 MAY 97 - Financial irresponsibility.

- f. CM: None.

- g. Record of SV: 31 Oct 95 - 07 Jun 96 Incirlik AB 5 (CRO)  
 07 Jun 96 - 06 Jun 97 SHAPE 3 (Annual)  
 08 Jun 97 - 07 Jun 98 SHAPE 2 (Annual) **REF**  
 08 Jun 98 - 07 Jun 99 SHAPE 2 (Annual) **REF**

- h. Awards & Decs: AFCEM, AFAM, AFOUA W/3 OLCS, AFGCM W/1 OLC, SWASM W/1 SS, AFOSSTR W/1 OLC, AFOSLTR, AFLSAR, AFTR.

- i. Stmt of Sv: TMS: (07) Yrs (01) Mos (08) Das

TAMS: (06) Yrs (09) Mos (04) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 May 05.  
 (Change Discharge to Honorable)

Issue 1: I feel I was unjustly discharged and my military career was full of positive accomplishments. I had agreed to a General discharge only after being told the discharge would be upgraded to honorable after 6 months. The information I was given was incorrect, and since my discharge, I have been an outstanding citizen, having used my experience from the Air Force to work for various television news stations in Las Vegas and Boston. I transferred to Public Relations a year ago, and have quickly moved into management at one of the largest PR firms in Las Vegas. I achieved a lot of things during my time in the military, and although my discharge doesn't full show it, I fulfilled my duty and served my country to the best of my ability. Aside from some minor incidents, I had a stellar career, and now I am trying to use my GI Bill to better myself. I respectfully request a change to Honorable so that I may take advantage of the benefits that I paid into.

**ATCH**

1. DD Form 214 (Member-4).

11AUG05/ia



DEPARTMENT OF THE AIR FORCE  
86TH AIRLIFT WING (USAF)

FD 2005-00214

copy  
served on  
below date

23 JUL 99

MEMORANDUM FOR [REDACTED] DET 1,  
AFNEWS

FROM: DET 1, AFNEWS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline according to AFD 36-32 and AFI 36-3208, under the provisions of Section H, paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are that:

a. You, were, the driver of a vehicle at the time of an accident in which said vehicle was involved, and having said accident, did, at or near Mons, Belgium, on or about 18 October 1998, wrongfully leave the scene of the accident without making your identity known. For this action, you received nonjudicial punishment under Article 15, UCMJ on 23 Jun 99. This Article 15 was filed in a UIF on 28 Jun 99 (Atch 1a).

b. You, did, at Shape, Belgium, on diverse occasions between on or about 5 Feb 99 to on or about 12 Mar 99, make and utter to Benelux Finance Office, Disbursing Office certain checks, in words and figures as follows, to wit: nine hundred twenty five dollars, in United States currency, for the purpose of cashing six personal checks, and thereafter dishonorably fail to maintain sufficient funds in the Navy Federal Credit Union for payment of such checks in full upon presentment for payment. For this action, you received a vacation of your suspended punishment under Article 15, UCMJ on 4 Jun 99 (Atch 1b).

c. You, did, at Shape, Belgium, on or about 21 Sep 98, with intent to deceive, make to the Financial Management Office, an official statement, to wit: by signing the Remission/Waiver Application Form stating you were "not aware of debt," which statement was totally false, and was then known by you to be so false. For this action, you received nonjudicial punishment under Article 15, UCMJ on 4 Dec 98. This Article 15 was filed in a UIF and you were placed on the Control Roster on 29 Jan 99 (Atch 1c).

d. You did, on or about 27 Aug 1997, fail to go at the time prescribed to your appointed place of duty, to wit: AFN Shape, Belgium and you, did, on or about 27 August 1997, fail to obey a lawful general regulation, to wit DoD regulation 5120.20-R. For these actions you received an LOR dated 6 Oct 97 (Atch 1d).

e. You, did, at Shape, Belgium, on diverse occasions between on or about 25 Feb 97 to on or about 6 Oct 97, make and utter to Benelux Finance Office, Disbursing Office certain checks, in words and figures as follows, to wit: two thousand dollars, in United States currency, for the purpose of cashing four personal checks, and thereafter dishonorably fail to maintain sufficient funds in the Navy Federal Credit Union for payment of such checks in full upon presentment for payment. For this action, you received an LOR dated 6 Oct 97 (Atch 1e).

f. You, did, at Shape Belgium, on or about 2 May 97, being in debit to Hertz Rental Car, dishonorably failed to pay said debt and you, did, make and utter to Benelux Finance Office, Disbursing Office certain checks, in words and figures for United States currency, for the purpose of cashing personal checks, and thereafter dishonorably fail to maintain sufficient funds in the Navy Federal Credit Union for payment of such checks in full upon presentment for payment. For this action, you received a LOC dated 5 May 97 (Atch 1f).

3. This action could result in your separation with an under other than honorable conditions (UOTHC) discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising Special Court-Martial 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 United States Air Force and will probably be denied enlistment in any component of the armed forces. Additionally, any special pay, bonus, or education assistance funds you have received may be subject to recoupment.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in 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. You have previously been scheduled for a medical examination.
6. Military legal counsel, Capt [REDACTED], Area Defense Counsel, located at Spangdahlem Air Base, Germany, DSN 452-6174, has been obtained to assist you. An appointment has been scheduled for you to consult Capt [REDACTED] on <sup>25</sup>23 Jul 99 at <sup>6300</sup>0900. Instead of the appointed counsel, you may have another if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you 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. The Area Defense Counsel requests you pick-up the Administrative Discharge Booklet one-day prior to your appointment.
7. Confer with your counsel and reply, in writing to me, within 7 workdays from this date, specifying the rights you choose to exercise as noted in paragraph four by completing **one** of the election statements I will give you. The statements I will give you must be signed in the presence of your counsel who will also sign acknowledging your decision. If you waive your right to a hearing before an administrative discharge board, you may submit written statements on 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.
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 the orderly room.
9. 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.
10. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]  
[REDACTED] Lt Col, USAF  
Commander [REDACTED]



## Attachments:

1. Supporting Documents
  - a. AF Form 3070, Record of Nonjudicial Punishment Proceedings (NJP) 23 Jun 99 and AF Form 1058 dated 28 Jun 99
  - b. AF Form 366, Record of Proceedings of Suspended NJP, 4 Jun 99
  - c. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 4 Dec 98 and AF Form 1058 dated 29 Jan 99
  - d. LOR, 6 Oct 97
  - e. LOR, 6 Oct 97
  - f. DA Form 4856, General Counseling Form, 5 May 97
2. Other Derogatory Information
  - a. Finance Returned Check Notice, 23 Apr 99
  - b. Finance Returned Check Notice, 14 Apr 99
  - c. Notification of Indebtedness, 8 Jun 98
  - d. Finance Returned Check Notice, 17 Aug 97
  - e. Memo for Record (MFR), 30 Jul 96
  - f. MFR, undated
3. Airman's Acknowledgment