

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>				GRADE AB		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>							
TYPE GEN		PERSONAL APPEARANCE				X RECORD REVIEW							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 2px;">COUNSEL</td> </tr> <tr> <td style="padding: 2px;">YES</td> <td style="padding: 2px;">No</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px; text-align: center;">X</td> </tr> </table>		COUNSEL		YES	No		X	NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL	
COUNSEL													
YES	No												
	X												
MEMBER SITTING						VOTE OF THE BOARD							
						HON	GEN	UOTHC	OTHER	DENY			
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ISSUES A93.09		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 20 Dec 2005		CASE NUMBER FD-2005-00232											
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE													
<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>													
SIGNATURE OF RECORDER <div style="background-color: black; width: 100%; height: 1.2em;"></div>						SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 1.2em;"></div>							
INDORSEMENT						DATE: 12/20/2005							
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-2005-00232

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) 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, change of reason and authority for discharge, and change of reenlistment code 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 does not contest his discharge. He states that he knows it was warranted but would now like to enlist in the Reserves. The records indicated the applicant received an Article 15 for drinking under age, entering the dormitory hallway of members of the opposite sex, stealing two compact discs and fleeing apprehension from a store detective. In addition, he also received a Letter of Reprimand for dereliction of duty. 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

[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Sheppard AFB, TX on 24 May 04 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: 11 Nov 84. Enlmt Age: 18 1/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-55, E-62, G-57, M-39. PAFSC: 1T111 - Aircrew Life Support Helper. DAS: 9 Dec 03.

b. Prior Sv: (1) AFRes 13 Dec 02 - 26 May 03 (5 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 May 03 for 6 yrs. Svd: 0 Yrs 11 Mo 28 Das, all AMS.

b. Grade Status: AB - 14 Apr 04 (Article 15, 14 Apr 04)
A1C - 11 Jul 03

c. Time Lost: None.

d. Art 15's: (1) 14 Apr 04, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties at or near Sheppard AFB, Texas, on or about 17 Mar 04, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21, as it was your duty to do. You, who knew or should have known of your duties at or near Sheppard AFB, Texas, on or about 17 Mar 04, were derelict in the performance of those duties in that you willfully failed to refrain from entering the dormitory hallway of members of the opposite sex, as it was your duty to do. Article 95. You, did, at or near Sheppard AFB, Texas, on or about 25 Feb 04, flee apprehension by running away from [REDACTED] an Army Air Force Exchange Service store detective, a person authorized to apprehend the accused. Article 121. You, did, at or near Sheppard AFB, Texas, on or about 25 Feb 04, steal two compact discs of a value of about \$21.90, the property of the Army Air Force Exchange Service. Article 134. You, were, at or near Sheppard AFB, Texas, on or about 17 Mar 04 disorderly. Reduction to AB, and forfeiture of \$400.00

pay. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 27 JAN 04 - Dereliction of duty for failing to obey a lawful order or regulation.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yrs (5) Mos (12) Das
TAMS: (0) Yrs (11) Mos (28) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 9 Jun 05.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Request and Authorization for Separation.
3. DD Form 214 (Member-1).

14JUL05/ia

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES <i>(Please read instructions on Pages 3 and 4 BEFORE completing this application.)</i>		Form Approved OMB No. 0704-0004 Expires Aug 31, 2006																					
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 <i>(The person whose discharge is to be reviewed).</i> PLEASE PRINT OR TYPE INFORMATION.																							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">a. BRANCH OF SERVICE <i>(X one)</i></td> <td style="width: 10%;"><input type="checkbox"/> ARMY</td> <td style="width: 10%;"><input type="checkbox"/> MARINE CORPS</td> <td style="width: 10%;"><input type="checkbox"/> NAVY</td> <td style="width: 10%;"><input checked="" type="checkbox"/> AIR FORCE</td> <td style="width: 10%;"><input type="checkbox"/> COAST GUARD</td> </tr> </table>			a. BRANCH OF SERVICE <i>(X one)</i>	<input type="checkbox"/> ARMY	<input type="checkbox"/> MARINE CORPS	<input type="checkbox"/> NAVY	<input checked="" type="checkbox"/> AIR FORCE	<input type="checkbox"/> COAST GUARD															
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3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 361TRS Sheppard AFB Witchitaw Falls TX																							
6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST <i>(Continue in Item 14. See instructions on Page 3.)</i> I am currently trying to enlist in the Active Duty Reserves as a CATM instructor at Warner Robbins Air Base GA. This should be the final step in achieving that. I believe that the upgrade is justified because although I know that my discharge was warranted, none of the same mistakes will be repeated. I am a driven, hard working person and am trying to make the best life possible for my new family. I was young, inexperienced in the world and made poor judgement decisions which i take full responsibility for.																							
7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON <i>(YYYYMMDD)</i> 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: <i>(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)</i> -Character references from employers and other associates (non-related) -Original discharge paperwork(DD Form214, AF IMT 100, 20030915) COPIES																							
9. TYPE OF REVIEW REQUESTED <i>(X one)</i>																							
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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.																							
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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. <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>		CASE NUMBER <i>(Do not write in this space.)</i> FD 2005 - 00232																					
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DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

6 May 04

MEMORANDUM FOR AB [REDACTED] 361 TRS

FROM: 361 TRS/CCQ

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 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 17 Mar 04, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21, as it was your duty to do. For this misconduct and subparagraphs "b," "c," "d," and "e," below, you received Article 15 punishment on 14 Apr 04.

b. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 17 Mar 04, were derelict in the performance of those duties in that you willfully failed to refrain from entering the dormitory hallway of members of the opposite sex, as it was your duty to do.

c. You were, at or near Sheppard AFB TX, on or about 17 Mar 04, disorderly.

d. You did, at or near Sheppard AFB TX, on or about 25 Feb 04, steal two compact discs of a value of about \$21.90, the property of the Army and Air Force Exchange Service.

e. You did, at or near Sheppard AFB TX, on or about 25 Feb 04, flee apprehension by running away from [REDACTED] an Army and Air Force Exchange Service store detective, a person authorized to apprehend the accused.

f. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 26 Jan 04, were derelict in the performance of those duties in that you, by your own admission, failed to study two hours a day, seven days a week, and failed to make and use at least 50 flashcards per block, as it was your duty to do. For this misconduct, you received a Letter of Reprimand (LOR) on 27 Jan 04.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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 and will probably be denied enlistment in any component of the armed forces.

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 [REDACTED], Area Defense Counsel, at BLDG 1638, on 7 May 04 at 1600 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 11 May 04, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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

6. You were scheduled for a medical examination on 3 May 04.

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 in the 361 TRS student administration office.

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

[REDACTED]
Capt, USAF
Squadron Section Commander

Attachments: (listed on next page)

1. AF Form 3070, 14 Apr 04
2. Response to Article 15, [REDACTED] 5 Apr 04
3. Appeal of Article 15 Action, 19 Apr 04
4. 361 TRS/CC Memo, 20 Apr 04
5. AF Form 1364, 17 Mar 04
6. AETC Form 1235, 18 Mar 04
7. AF Form 1168, [REDACTED] 17 Mar 04
8. AF Form 1168, [REDACTED] 17 Mar 04
9. AF Form 1168, [REDACTED] 17 Mar 04
10. AF form 1168, [REDACTED] 17 Mar 04
11. AF Form 1168, [REDACTED] 17 Mar 04
12. AF Form 1168, [REDACTED] 17 Mar 04
13. AF Form 1168, [REDACTED] 17 Mar 04
14. AF Form 1168, [REDACTED] 17 Mar 04
15. AF Form 1168, [REDACTED] 17 Mar 04
16. AF Form 1168, [REDACTED] 17 Mar 04
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18. AF Form 1168, [REDACTED] 17 Mar 04
19. AF Form 1168, [REDACTED] 17 Mar 04
20. AF Form 1168, [REDACTED] 17 Mar 04
21. AF Form 1168, [REDACTED] 17 Mar 04
22. AF Form 1168, [REDACTED] 17 Mar 04
23. AF Form 1168, [REDACTED] 17 Mar 04
24. AF Form 3545, 26 Feb 04 w/7 atch
25. AF Form 1168, [REDACTED] 25 Feb 04
26. LOR, 27 Jan 04
27. Student Training Report, 04013
28. AETC Form 173, 13 Feb 04
29. AETC Form 125A, 5 Dec 03
30. Student Training Report, 03042
31. MFR, [REDACTED] 29 Apr 04
32. Airman's Receipt to Notification Memorandum, wcl