

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE A1C	AFSN/SSAN
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No	NAME OF COUNSEL AND OR ORGANIZATION	
	X		

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

ISSUES A94.05	INDEX NUMBER 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 06 Dec 2005	CASE NUMBER FD-2005-00308				

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

SIGNATURE OF RECORDER 	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT		DATE: 12/6/2005
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-2005-00308

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to 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 contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, and a Disciplinary Release from Airman Leadership School for misconduct. The misconduct included operating a passenger car while drunk on two separate occasions. 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 A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr McGuire AFB, NJ on 10 May 93 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 13 Jul 65. Enlmt Age: 21 1/12. Disch Age: 27 9/12. Educ: HS DIPL. AFQT: N/A. A-67, E-58, G-52, M-84. PAFSC: 81152 - Law Enforcement Specialist. DAS: 5 Apr 92.

b. Prior Sv: (1) USMCR 6 Sep 84 - 19 Aug 87. Svd: 02 yrs 11 mos 15 das, of which AMS is 05 mos 29 das.

(2) Enlisted as Amn 20 Aug 87 for 4 yrs. Svd: 3 yrs 1 month 12 days, all AMS. A1C - 20 Jun 88. SrA - 20 Aug 90. APRs: 9. EPRs: 5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 2 Oct 90 for 4 yrs. Svd: 02 Yrs 07 Mo 09 Das, all AMS.

b. Grade Status: A1C - 04 Feb 93, (Article 15, 4 Feb 93)

c. Time Lost: None.

d. Art 15's: (1) 04 Feb 93, Rhein-Main AB, Germany - Article 111. You, did, at or near Morfelden, Federal Republic of Germany, on or about 16 Jan 93, at or near Diesel Strasse, operate a vehicle, to wit: a passenger car, while drunk. Reduction to A1C, and forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 09 Apr 91, Gila Bend AF Aux Field, AZ - Article 111. You, did, on or about 20 Mar 91, on Highway 85 between mile markers 139 and 140 operate a vehicle, to wit: a passenger car, while drunk. Forfeiture of \$250.00 pay per month for two months. Suspended reduction to A1C (Remitted). (No appeal) (No mitigation)

e. Additional: LTR, 20 JAN 93 - Disciplinary Release from Amn Leadership School.

AF Fm 2096, 26 Mar 93 - Withdrawal of AFSC; given AFSC

99005.

f. CM: None.

g. Record of SV: 27 Nov 89 - 26 Nov 90 Gila Bend AF Aux Fld 3 (Annual)
 27 Nov 90 - 18 Apr 91 Gila Bend AF Aux Fld 3 (CRO)
 19 Apr 91 - 31 Jan 92 Gila Bend AF Aux Fld 5 (CRO)
 01 Feb 92 - 31 Jan 93 Rhein-Main AB 3 (Annual) **REF**

h. Awards & Decs: AFAM W/1 OLC, AFOUA, AFGCM, AOM, NDSM, AFOSLTR W/1 OLC, AFLSAR, NCOPMER, SAEMR, AFTR.

i. Stmt of Sv: TMS: (08) Yrs (08) Mos (05) Das
 TAMS: (06) Yrs (02) Mos (21) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 25 Jul 05.

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

Issue 1: I am trying to get my reenlistment code upgraded. I realize I can get back into the Air Force, so I have talked to Army Recruiters and have been told that with the current RE-Code it's not possible. They have told me that if the RE code is changed that I would possibly be able to get a waiver to go into the Army. I feel that I still have something to offer to the U.S. Military. If you need to talk to the Recruiter to confirm this information you can contact Sergeant First Class [redacted] If this can be exploited (sic) due to that I have approx (sic) 6 months before I'll be to (sic) old to go into the Army.

ATCH

1. Two DD Forms 214.
2. Statement of Service.
3. College Transcript.
4. Two Training Certificates.

9SRP05/ia

DEPARTMENT OF THE AIR FORCE
435TH SECURITY POLICE SQUADRON (USAFE)
APO NEW YORK 09097-5000

30 MAR 1993

FROM: 435 SPS/CC

SUBJ: Notification Letter - Board Hearing

TO:
435 SPS

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 AFR 39-10, under the provisions of paragraph 5-47b. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 16 Jan 93 you did, at or near Morfelden, Federal Republic of Germany, at or near Diesel Strasse operate a vehicle, to wit: a passenger car, while drunk, for which you received an Article 15 on 4 Feb 93.

b. On or about 20 Mar 91, you did, at or near Gila Bend, Arizona, on Highway 85 between mile markers 139 and 140, operated a vehicle, to wit: a passenger car, while drunk, for this you received an Article 15 on 9 Apr 91.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable discharge. The commander exercising SPCM 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 Air Force.

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 been scheduled for a medical examination. You must report to 435th Medical Squadron, at 1000 hrs on ~~29 Mar 93~~ / APR 93.

6. Military legal counsel, Capt Bldg 345, 330-7770, has been obtained to assist you. An appointment has been scheduled for you to consult counsel on 5 Apr 93 at 0800 hrs. 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 AFR 111-1. 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 readily be available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in 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 Statement as explained in AFR 39-10, attachment 2. A copy of AFR 39-10 is available for your use at the 435th Security Police Squadron orderly room.

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

Commander

2 Atchs
NL1. Supporting Documents
NL1a. Art. 15, 5 Feb 93
w/Atchs
NL1b. MSN Ltr, 20 Jan 93

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE (LAST, FIRST, MIDDLE INITIAL)		GRADE	AFSN/SSAN
		A1C	

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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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	A94.05	INDEX NUMBER	A67.90	EXHIBITS SUBMITTED TO THE BOARD	
				1	ORDER APPOINTING THE BOARD
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					COUNSEL'S RELEASE TO THE BOARD
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
					TAPE RECORDING OF PERSONAL APPEARANCE

HEARING DATE	CASE NUMBER
06 Dec 2005	FD-2005-00191

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.

SIGNATURE OF RECORDER: *[Signature]* SIGNATURE OF BOARD PRESIDENT: *[Signature]*

INDORSEMENT		DATE: 12/6/2005
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-2005-00191

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: The applicant stated he was told that he was eligible to have his discharge upgraded to honorable after a period of six months. The records indicated that the applicant received an Article 15, a Letter of Counseling and an Incident Report for misconduct. The misconduct included two instances of applicant (a Security Forces Apprentice) sleeping on post and failure to attend mandatory training. The DRB noted the dangers of a Security Forces member sleeping on post with an unsecured weapon. Additionally, the DRB noted that 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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Edwards AFB, CA on 26 Sep 01 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: 5 Dec 81. Enlmt Age: 17 11/12. Disch Age: 19 9/12. Educ: HS DIPL. AFQT: N/A. A-46, E-40, G-39, M-33. PAFSC: 3P031 - Security Forces Apprentice. DAS: 3 Jan 01.

b. Prior Sv: (1) AFRes 13 Nov 99 - 20 Jun 00 (7 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 Jun 00 for 6 yrs. Svd: 1 Yrs 3 Mo 6 Das, all AMS.

b. Grade Status: A1C - 4 Aug 00

c. Time Lost: None.

d. Art 15's: (1) 16 Jul 01, Edwards AFB, CA - Article 113. You, did, on or about 6 Jun 01, at Edwards AFB, California, being on post as a sentinel at Falcon-1 were found sleeping upon your post. Seven days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOC, 30 JUL 01 - Failure to go.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (10) Mos (14) Das
TAMS: (1) Yrs (3) Mos (6) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Apr 05.
(Change Discharge to Honorable)

Issue 1: Per [REDACTED] DAF Chief, Retirements and separations (See signature on DD-214 discharge). I was eligible to have discharge upgraded to honorable after period of six months.

FD2005-00191

ATCH
None.

23JUN05/ia

FD 2005-00191



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 95TH AIR BASE WING (AFMC)
EDWARDS AIR FORCE BASE, CALIFORNIA

SEP 12 2001

MEMORANDUM FOR A1C [REDACTED], 95 SFS

FROM: 95 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct (Conduct Prejudicial to Good Order and Discipline). The authority for this action is AFPD 36-32 and AFI 36-3208, para 5.50.2. If my recommendation is approved, your discharge will be characterized as either Honorable or General (under honorable conditions).

2. My reasons for discharging you are:

a. On 6 Jun 01, you were found sleeping on your post, as evidenced by an AF Form 3070 (Article 15) dated 16 Jul 01. (Atch 1.1)

b. On 24 Jul 01, you failed to attend mandatory training, as evidenced by a Letter of Counseling dated 30 Jul 01. (Atch 1.2)

c. On 18 Aug 01, you were found sleeping on your post, as evidenced by an AF Form 3545 (Incident Report) dated 18 Aug 01. (Atch 1.3)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial convening authority (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.

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 [REDACTED] at Bldg 2670 on 14 Sep 01 at 1430. 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 by 17 Sep 01 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.

FD 2005-00191

7. You have been scheduled for a medical examination. You must report to the Physical Examination Section, Flight Surgeon's Office, Bldg 3925 at 0730 on 17 Sep 01 for the examination.

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.



Commander

Attachments:

1. Supporting Documentation
 - 1.1 AF Form 3070 (Article 15) dated 16 Jul 01
 - 1.2 Letter of Counseling dated 30 Jul 01
 - 1.3 AF Form 3545 (Incident Report) dated 18 Aug 01
- 2 Airman's Receipt of Notification/Recoupment Memorandum
- 3 Airman's Statement