

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

(TRIAL)

TYPE GEN		<b>X</b>	PERSONAL APPEARANCE		RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	No	MIKE MICHELOTTI			FL DISABLED AMERICAN VETERANS		
<b>X</b>							

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

ISSUES A92.22 A01.17 A93.08 A93.02 A94.05	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 <b>19 May 2005</b>	CASE NUMBER <b>FD-2004-00501</b>
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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., via video-teleconference with St. Augustine, FL.

Advise applicant of the decision of the Board 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: 5/23/2005
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-2004-00501

**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) and elected to exercise this right. The applicant appeared and testified before the DRB, with counsel, at St. Augustine, Florida and Andrews AFB, Maryland on 19 May 2005 via video conferencing. The following additional exhibits were submitted at the hearing:

Exhibit 5: An unsigned but notarized letter from the applicant's spouse dated 17 May 2005.

Exhibit 6: An unsigned but notarized letter from the applicant's father dated 17 May 2005.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

**FINDINGS:** Upgrade of discharge to honorable is approved. Changes to the reason and authority for discharge and the reenlistment code are denied. The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety or inequity that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds relief is otherwise warranted.

**ISSUE:**

Issue 1. In the initial application, the applicant cited his desire to join the Army National Guard or more preferably, rejoin the Air Force. (At the time of the hearing, the applicant had recently been accepted into the Army National Guard and had been assigned similar law enforcement duties performed in the Air Force). The applicant contends that his misconduct was a result of his age, his immaturity, and his family and marital problems. He said that he and his wife had matured since his discharge, reconciled their marital difficulties and were now the parents of a one-year old son. In support of his application, the applicant provided statements from his father, the mayor of the applicant's hometown, and a state legislative representative all attesting to the applicant's character post discharge. After review of the applicant's record and the additional evidence provided, the DRB determined that relief was otherwise warranted based upon the applicant's resolution of his family and personal problems that affected his ability to serve satisfactorily, his post-service conduct and his strong desire to further serve his country.

Issue 2. During the course of the hearing, the applicant contended that the paragraph discussing characterization of discharge in the separation authority's legal review misstated one of the pieces of misconduct relating to the applicant's possession of a weapon. The DRB concurred that the description of the misconduct was inaccurate but concluded that the error was not prejudicial.

Issue 3. During the hearing, the applicant also contended that he was falsely accused of communicating threats to his spouse and to her friend. The DRB, relying on the regularity of the documents, concluded, however, that the greater weight of the credible evidence supported that acts were committed as described.

Issue 4. Finally during the hearing, the applicant also testified that he felt that his punishment for violating his no contact order with his spouse was too harsh and that his discharge action was initiated too soon without giving him an opportunity to work through his marital problems. The DRB found that the punishment was not harsh nor the discharge initiated too soon given the applicant's approximately year-long marital discord, substantiated domestic abuse, and other minor disciplinary infractions.

**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. However, in view of the foregoing findings, the Board further concludes that relief is otherwise warranted. The applicant's characterization should be changed to honorable under the provisions of Title 10, USC 1553.

Attachment:  
Examiner's Brief

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

[REDACTED]

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Tyndall AFB, FL on 7 Jan 03 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: 3 Nov 80. Enlmt Age: 18 5/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-56, E-31, G-41, M-23. PAFSC: 3P051 - Security Forces Journeyman. DAS: 5 Dec 99.

b. Prior Sv: (1) AFRes 28 Apr 99 - 29 Jun 99 (2 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 30 Jun 99 for 6 yrs. Svd: 3 Yrs 6 Mo 9 Das, all AMS.

b. Grade Status: A1C - 3 Dec 02 (Article 15, 3 Dec 02)  
SrA - 30 Oct 01

c. Time Lost: None.

d. Art 15's: (1) 3 Dec 02, Tyndall AFB, FL - Article 107. You, did, at or near Panama City, Florida, on or about 27 Oct 02, with intent to deceive, make to [REDACTED] an official statement, to wit: that you did not have your weapon because it was with a friend, which statement was totally false, and was then known by you to be so false. Article 92. You, having knowledge of a lawful order issued by [REDACTED], to refrain from having contact with [REDACTED] an order which it was your duty to obey, did, at or near Panama City, Florida, on or about 1 Nov 02, fail to obey the same by wrongfully breaking your no contact order with [REDACTED] Reduction to A1C, forfeiture of \$200.00 pay per month for 2 months, 30 days extra duty, and a reprimand. (Appeal/Denied) (No mitigation)

e. Additional: LOC, 01 DEC 02 - Poor dress and appearance.  
LOR, 25 NOV 02 - Communicating a threat.  
LOR, 22 JUL 02 - Unauthorized use of a government phone.  
LOC, 13 JAN 02 - Flagrant disregard for ability to follow orders and dereliction of duty.

f. CM: None.

g. Record of SV: 30 Jun 99 - 15 Jan 01 Tyndall AFB 4 (HAF Dir)  
16 Jan 01 - 15 Jan 02 Tyndall AFB 3 (Annual)

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

i. Stmt of Sv: TMS: (3) Yrs (8) Mos (11) Das  
TAMS: (3) Yrs (6) Mos (9) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 14 Dec 04.  
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. DD Form 214.
3. Three Character References.

7FEB05/ia

## MEMORANDUM FOR: DISCHARGE REVIEW BOARD

FROM: [REDACTED]

DOB: [REDACTED]

My name is [REDACTED] and I was born in Emanuel County Ga and I attended High school at Swainsboro High. When I graduated I joined the US Air Force immediately after, and I became a military police officer and served as a military police officer for three and a half years. Unfortunately I had gotten myself in a bit of trouble before my enlistment was up and was discharged with a general under honorable conditions discharge. I was discharged because my family and I was having some problems and someone reported to my supervisor that I had a weapon in my vehicle and I was asked and I made a mistake and lied about it.

I was young at that time and never been out on my own and I was confused and really didn't know what to do. It has been over two years now and everyday I wish that I knew then what I know now. I have never been to jail nor have I ever been charged of any crime. I always wanted to be in law enforcement like my dad and my older brother and every day that goes by I always wish that I would have not made the mistakes that I made. I served honorably as a military police officer and I enjoyed it very much and when you review my records the only problems that I had was issues in my personal life. I feel that now since and am older and wiser I can contribute to society by doing the jobs that I have always loved and that's being in the military or Law enforcement.

Since my discharge I tried to reenter the Military in the Army National Guard and I was told that I had to wait two years before I could reenter. My two year wait is now up but I want to try to attempt to reenter the branch that I have always loved and that's the US Air Force. I have put in some supporting documents in my appeal from some highly respected individuals from my state and community for character purpose.

I would be most thankful if you can help me in any way by changing my discharge to honorable so that I can prove to be a productive member in the United States Air force. I now presently work at a glass fabrication plant in Statesboro Ga called Viracon and I am still married and have and one year old son. I am also attending Ashworth College to continue my degree in criminal justice. Thank you Sir or Mam for reading my letter and I will continue to hope and pray that I can get my situation resolved.

Sincerely,  
[REDACTED]



DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND (AETC)  
TYNDALL AIR FORCE BASE, FLORIDA

MEMORANDUM FOR A1C [REDACTED]

20 DEC 2002

FROM: 325 SFS/CC

SUBJECT: Notification Memorandum—Administrative Discharge

1. I am recommending your discharge from the United States Air Force for Misconduct: specifically, Minor Disciplinary Infractions. The authority for this action is Air Force Policy Directive 36-32 and Air Force Instruction 36-3208, Chapter 5, Section H, para 5.49. If my recommendation 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:

a. As evidenced by an Article 15 dated 13 December 2002:

1. You, did, at or near Panama City, Florida, on or about 27 October 2002, with intent to deceive, make to SSgt [REDACTED] an official statement, to wit: that you did not have your weapon because it was with a friend, which statement was totally false, and was then known by you to be so false.

2. You, having knowledge of a lawful order issued by Major [REDACTED] to refrain from having contact with [REDACTED] an order which it was your duty to obey, did, at or near Panama City, Florida, on or about 1 November 2002, fail to obey the same by wrongfully breaking your no contact order with [REDACTED] without proper authority. (Atch 1a)

b. You did, at or near Tyndall Air Force Base, Florida, on or about 28 November 2002, fail to maintain your hair and facial hair within acceptable standards of dress and appearance, in violation of AFI 36-2903, as evidenced by an LOC dated 1 December 2002. (Atch 1b)

c. You did, on or about 27 Oct 02, communicate a threat to [REDACTED] as evidenced by an LOR dated 25 November 2002. (Atch 1c)

d. You, did, at or near Tyndall Air Force Base, Florida, on or about 29 June 2002, make four unauthorized long distance phone calls on a government phone while posted as the installation entry controller at Sabre gate, as evidenced by an LOR dated 22 July 02. (Atch 1d)

e. You, who knew or should have known of your duties, at or near Tyndall Air Force Base, Florida, on or about 2 January 2002, were derelict in the performance of your duties in that you negligently failed to conduct a proper change over of your post prior to accepting your post, as it was your duty to do, as evidenced by an LOC dated 13 January 2002. (Atch 1e)

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 jurisdiction, or a higher

[REDACTED]

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 and will probably be denied enlistment in any component of the armed forces.

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult [redacted] Area Defense Counsel, Bldg. 1005 (3-2911) at 1400 AOS on 20 Dec 02. You may consult civilian legal counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three (3) workdays unless you request and receive an extension, in writing, for showing good cause. I will send them to the separation authority.

6. 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.

7. You have been scheduled for a medical records check as part of this discharge process. You must report to the NCOIC, Physical Examinations, Building 1465/3-7673, Monday, Tuesday, Thursday or Friday between 1330 and 1500 to complete this medical records check.

8. You have been scheduled for a separations briefing. You must report to 325 MSS/DPMAR (Separations) section at 1315 on 20 Dec 02.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act. A copy of AFI 36-3208 is available for your use in the unit personnel office.

10. Execute the attached acknowledgment and return [redacted] immediately.

[Redacted signature block]

Commander, 325 SFS

Attachments:

- 1a. Article 15, dated 13 Dec 02
- 1b. LOC, dated 1 Dec 02
- 1c. LOR, dated 25 Nov 02
- 1d. LOR, dated 22 Jul 02
- 1e. LOC, dated 13 Jan 02
- 2. Airman's Receipt of Notification Memorandum

[Redacted footer]