

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE AB	AFSN/SSAN																
TYPE GEN	X	PERSONAL APPEARANCE		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												
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD															
A92.35 A92.21 A93.01 A92.01 A93.33 A94.05 A39.00 A94.43		A67.05		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>TAPE RECORDING OF PERSONAL APPEARANCE</td> </tr> </table>		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
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HEARING DATE		CASE NUMBER																	
23 Feb 2006		FD-2005-00125																	
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> <div style="text-align: center; margin-top: 20px;"> </div>																			
INDORSEMENT				DATE: 2/24/2006															
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-2005-00125

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reenlistment (RE) code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 23 Feb 2006.

The following additional exhibits were submitted at the hearing:

Exhibit #5: Applicant's Written Statement

Exhibit #6: Character Statements (3)

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

FINDINGS: Upgrade of 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.

ISSUES: The applicant submitted multiple issues to support his contention for receiving an upgrade of discharge and a change in his RE code. Namely, the applicant contends that his discharge was too harsh and was based upon "isolated acts" of misconduct and thus were not serious enough to warrant a "bad discharge." Further, the applicant believes that his efficiency ratings and "proficiency marks," along with his many letters of commendation and good post-service citizenship should be considered in upgrading the characterization of his military service. The applicant also believes that personnel problems and personality conflicts under new squadron leadership impaired his ability to function effectively, or words to that effect. Finally, the applicant cited that his clinical history of Attention Deficit Hyperactivity Disorder (ADHD), a condition which pre-dated his entry on active military service and which he failed to disclose at the time of his entry on active military service, and his failure to receive alcohol abuse counseling warrant consideration as possible causal or mitigating factors in his pattern of misconduct. The records indicated the applicant received two Articles 15, (the first for viewing/storing pornographic images on a government computer) followed by a Vacation Action (for underage alcohol consumption, drunk and disorderly conduct, and misappropriation of a driver's license, not his own), and the second Article 15 resulting in a further grade reduction to Airman Basic, one Letter of Reprimand (for failure to report to duty at the prescribed time), and one Letter of Counseling (for failure to complete an outstanding task). In response to the discharge action, the applicant expressed a desire to be retained, citing the "right path" he was following through mentoring. However, the DRB opined that through the aforementioned administrative actions, the applicant had ample opportunities to change his negative behavior, as noted in the specific language of the letter of reprimand, which followed a letter of counseling, both predating the final act of misconduct that resulted in his discharge, that reads: "Your career is under scrutiny and you have absolutely no margin for error." While the applicant clearly demonstrated a great deal of volunteerism within his organization and had previously attained a favorable enlisted performance report, the pattern of misconduct that followed far outweighed the positive aspects of his enlistment in the view of the discharge authority. With reference to personality and personnel conflicts within his squadron, the Board noted that the applicant had already been transferred from a previous organization allegedly not based upon his conduct or performance. The Board otherwise found no evidence of substantiated maltreatment or "singling-out" of the applicant based upon his gender, race, physical characteristics, personality, or level of training. With reference to the applicant's ADHD and alcohol consumption issues, the medical record reflects the member was indeed interviewed by Life Skills personnel and received a prescribed medication for ADHD and was scheduled to attend an alcoholism awareness seminar, with the belief, likely through the history of a singular documented episode of alcohol-associated misconduct or the applicant's failure to disclose the true depth of his alcohol consumption, that the applicant did not require more intense intervention, as in the case of alcohol abuse or dependency. The applicant also cited an example of others, within another organization, he believed committed similar or worse misconduct who were retained on active duty. However, the Board had no objective evidence upon which to establish an inequity was committed in the applicant's case. The Board was pleased to see that the applicant has done well since his discharge, having achieved solid employment in a state correctional institution, with participation in church and community activities. However, no inequity or impropriety in the applicant's discharge was suggested or identified in the course of his hearing that would warrant an upgrade of discharge or change in RE code.

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.

Attachment:

Examiner's Brief

**DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
DREWS AFB, MD**

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Peterson AFB, CO on 2 Apr 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 RE Code, Reason and Authority for Disch.

2. **BACKGROUND:**

a. DOB: 28 May 83. Enlmt Age: 17 5/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-74, E-81, G-72, M-62. PAFSC: 3A031 - Information Management Apprentice. DAS: 1 Apr 02.

b. Prior Sv: (1) AFRes 28 Oct 01 - 3 Sep 01 (10 mos 6 das) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Sep 01 for 6 years. Svd: 02 Yrs 06 Mo 29 Das, all AMS.

b. Grade Status: AB - 20 Feb 04 (Article 15, 20 Feb 04)
Amn - 21 Nov 03 (Vacation of Suspension, 29 Jan 04)
A1C - 19 Oct 01

c. Time Lost: None.

d. Art 15's: (1) 20 Feb 04, Peterson AFB, CO - Article 92. You, who knew of your duties, on or about 9 Jan 04, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21 years, as it was your duty to do. Article 121. You did, on or about 9 Jan 04, wrongfully appropriate a Pennsylvania driver's license, of a value to less than \$500.00, the property of AB Article 134. You were, on or about 9 Jan 04, drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces. Reduction to AB. (No appeal) (No mitigation)

(2) 29 Jan 04, Vacation, Peterson AFB, CO - Article 92. You, who knew of your duties, on or about 9 Jan 04, were derelict in the performance of these duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21 years, as it was your duty to do. Article 121. You did, on or about 9 Jan 04, wrongfully appropriate a Pennsylvania driver's license, of a value of less than \$500.00, the property of AB Article 134. You were, on or about

9 Jan 04, drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces.
Reduction to Amn. (No appeal) (No mitigation)

(3) 21 Nov 03, Peterson AFB, CO - Article 92. You did, on divers occasions between on or about 17 Mar 03 and on or about 19 May 03, violate a lawful general regulation, to wit: AFI 33-129, para 6.1.3, dated 4 Apr 01, by wrongfully using a government computer to store and display pornographic websites. Suspended Reduction to Amn. Forfeiture of \$100.00 pay per month for 2 months and Reprimand. (No appeal) (No mitigation)

- e. Additional: LOR, 15 DEC 03 - Failure to Go.
LOC, 12 NOV 03 - Failed to finish assigned tasks and lying about having completed them.
- f. CM: None.
- g. Record of SV: 04 Sep 01 - 15 Apr 03 Peterson AFB 5 (HAF Dir)
16 Apr 03 - 21 Jan 04 Peterson AFB 2 (CRO)
- h. Awards & Decs: NDSM, AFTR, SAMR.
- i. Stmt of Sv: TMS: (03) Yrs (05) Mos (05) Das
TAMS: (02) Yrs (06) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Nov 05.
(Change Discharge to Honorable, and to Change the RE Code, Reason and Authority for Discharge.)

ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.
- 2. Two copies of DD Form 214.

30NOV05/day

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

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

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 Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. 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 ADDRESS. 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.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE d. SOCIAL SECURITY NUMBER

E-1

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) **4. DISCHARGE CHARACTERIZATION RECEIVED (X one)** **5. BOARD ACTION REQUESTED (X one)**

2004 03 19 HONORABLE CHANGE TO HONORABLE

GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS

UNDER OTHER THAN HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)

BAD CONDUCT (Special court-martial only) CHANGE NARRATIVE REASON FOR SEPARATION TO:

UNCHARACTERIZED

OTHER (Explain)

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

I believe that the small occurrences that happened while I served in the US Air Force are not who and what kind of person I am today. I make mistakes and everyone does. I have been doing very well and am very successful since discharge. I currently work for the state of Pennsylvania Department of Corrections as a corrections officer. I would really appreciate an upgrade. Thanks.

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.) DD214.

9. TYPE OF REVIEW REQUESTED (X one)

CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.

I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.

I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) Harrisburg, PA (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

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 and relationship by marking a box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

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

b. TELEPHONE NUMBER (Include Area Code)

c.

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.)

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

b. DATE SIGNED - REQUIRED (YYYYMMDD)

2005 11 16

CASE NUMBER
(Do not write in this space.)
FD 2005-00449
00125

14. CONTINUATION OF ITEM 6, ISSUES (If applicable) also would like my separation code changed. Once again I believe my incidents to be minor. Thanks.

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

16. REMARKS (If applicable)

I have also realized my mistakes and have taken steps to correct them and better myself. Since leaving the military I was a Flight Attendant for US Airways. And now am a corrections officer at Pennsylvania State Correctional Institution - Camp Hill.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593



DEPARTMENT OF THE AIR FORCE

21ST SPACE WING (AFSPC)

10 Mar 04

MEMORANDUM FOR AB

FROM: 21 MSS/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 an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

a. On or about 9 Jan 04 you were derelict in your duties in that you drank an alcoholic beverage while under the age of 21 years. For this misconduct a previously suspended nonjudicial punishment was vacated on 2 Feb 03 (Atch 1). You also received Nonjudicial Punishment dated 26 Feb 04 (Atch 2). Punishment consisted of reduction to the grade of Airman Basic.

b. On or about 9 Jan 04 you wrongfully appropriated a driver's license of another airman. For this misconduct a previously suspended nonjudicial punishment was vacated on 2 Feb 03 (Atch 1). You also received Nonjudicial Punishment dated 26 Feb 04 (Atch 2).

c. On or about 9 Jan 04 you were drunk and disorderly. For this misconduct a previously suspended nonjudicial punishment was vacated on 2 Feb 03 (Atch 1). You also received Nonjudicial Punishment dated 26 Feb 04 (Atch 2).

d. Between on or about 17 Mar 03 and on or about 19 May 03 you violated a lawful general regulation by wrongfully using a government computer to store and display pornography and by accessing pornographic websites. For this misconduct you received Nonjudicial Punishment dated 21 Nov 03. Punishment consisted of a reduction to the grade of Airman suspended for six months, forfeiture of \$100.00 pay per month for two months, and a reprimand (Atch 3).

3. Other Derogatory Data

a. On or about 15 Dec 03 you failed to report to duty at the prescribed time of 0700L. For this misconduct you received a Letter of Reprimand (Atch 4).

b. On or about 3 Nov 03 you failed to complete the outstanding tasks required to be finished before you were to take leave. For this misconduct you received a Letter of Counseling (Atch 5).

4. 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 United States 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.

5. 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 Building 350, on 10 Mar 04, at 1430 hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by NLT 1600 hours on 15 Mar 04 2003 (3 workdays) unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You have been scheduled for a medical examination. You must report to 21st Space Wing Medical Group Clinic, 559 Vincent Street on 17 Mar 04, at 1100 hours for the examination.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AF1 36-3208 is available for your use at the orderly room.

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

Commander

v

Attachments:

- 1. Vacation of Nonjudicial Punishment dated 2 Feb 04
- 2. Nonjudicial Punishment dated 26 Feb 04
- 3. Nonjudicial Punishment dated 21 Nov 03
- 4. Letter of Reprimand
- 5. Letter of Counseling
- 6. EPR
- 7. Receipt of Notification Memorandum