

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE AMN
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TYPE GEN	X	PERSONAL APPEARANCE	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	A94.58 A92.02 A93.20	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	CASE NUMBER
23 Jan 2006	FD-2005-00145

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at the Florida State Armory, St. Augustine, Florida and Washington, D.C. via video teleconference.

Advise applicant of the decision of the Board.

Names and votes will be made available to the applicant at the applicant's request.

INDORSEMENT		DATE: 1/23/2006
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-2005-00145

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at the Florida State Armory, St. Augustine, Florida and Andrews AFB, via video teleconference on 23 Jan 2006. Ms. CC, the applicant's friend, also testified as a witness on his behalf.

The following additional exhibits were submitted at the hearing:

Exhibit #6: American Muscle & Fitness Personal Trainer Certificate.

Exhibit #7: American Muscle & Fitness Recommendation Letter.

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

FINDINGS: Upgrade of discharge is approved.

ISSUE: Applicant acknowledged that his actions were wrong and that he had a problem with alcohol. He stated that despite his alcohol problem, he was considered a sharp airman. He expressed his concern that his discharge would adversely affect his ability to obtain United States Citizenship. He also cited his desire to receive the G.I. Bill benefits as justification for upgrade as he desired to return to school and become a physical therapist. While the Board was sympathetic to the applicant's concerns over citizenship and the impact the loss of G.I. Bill benefits were having on the applicant, it did not consider this a matter of inequity or impropriety which would warrant an upgrade. The DRB, however, concluded that the applicant's discharge was too harsh, given the totality of the circumstances surrounding the applicant's second offense of driving while intoxicated (DUI) and his otherwise excellent duty performance, participation in honor guard, and volunteerism. The applicant's first enlisted performance report was a "firewall" 5. His rater said he "epitomized Air Force core values--extraordinary enthusiasm displayed daily--promote ahead of schedule." His additional rater said, "absolute quality performer--a high achiever with extreme capabilities and potential--promote immediately!" Although, his next EPR was a referral for drinking underage then driving while intoxicated (DUI), followed by a second DUI, his duty performance was rated absolutely superior and his EPR continued to show a dedication to the Honor Guard and various volunteer activities. With respect to the second DUI, the board believed the applicant's decision to drive his friend from the dormitory to his vehicle parked at the base gate to recover a wallet was the result of his impaired alcoholic judgment. Whereas, his decision earlier that same night to walk to a night club just outside the gate to consume alcohol with his friend reflected a significant mitigating factor and demonstrated that the applicant was conscious of his responsibility not to drive under the influence of alcohol. Given the facts surrounding his second DUI and his otherwise outstanding duty performance, the DRB believed that the applicant should have been provided additional probation and rehabilitation.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation. In view of the foregoing findings the Board further concludes that there exists an equitable basis for upgrade of discharge, thus the applicant's discharge should be changed.

Attachment:
Examiner's Brief

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

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Eglin AFB, FL on 11 Feb 05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 16 May 83. Enlmt Age: 17 10/12. Disch Age: 21 8/12. Educ: HS DIPL. AFQT: N/A. A-50, E-36, G-39, M-35. PAFSC: 3E131 - Heating, Vent, A/C, and Refrigeration Journeyman. DAS: 23 Feb 03.

b. Prior Sv: (1) AFRes 9 Apr 02 - 25 Jun 02 (2 months 17 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 Jun 02 for 6 yrs. Svd: 2 Yrs 7 Mo 16 Das, all AMS.

b. Grade Status: Amn - 15 Nov 04 (Article 15, 15 Nov 04)
A1C - 09 Aug 02

c. Time Lost: None.

d. Art 15's: (1) 15 Nov 04, Eglin AFB, FL - Article 111. You, did, on or about 11 Oct 04, at or near the entry control point of the East Gate, physically control a vehicle, to wit: a passenger car, while drunk. Reduction to AB (reduction below Airman suspended). Reprimand. (No appeal) (No mitigation)

(2) 10 Apr 04, Eglin AFB, FL - Article 92. You, who knew of your duties, on or about 6 Mar 04, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the age of twenty-one(21), as it was your duty to do. Article 111. You did, on or about 6 Mar 04, at or near the entry control point of the West Gate, physically control a vehicle, to wit: a passenger car while the alcohol concentration in your breath was 0.195 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. Suspended reduction to Airman. Forfeiture of \$668.00 per month for 2 months, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

- f. CM: None.
- g. Record of SV: 26 Jun 02 - 15 Jan 04 Eglin AFB 5 (HAF Dir)
16 Jan 04 - 15 Jan 05 Eglin AFB 2 (Annual) **REF**
- h. Awards & Decs: AFTR, NDSM, AFOUA.
- i. Stmt of Sv: TMS: (2) Yrs (10) Mos (03) Das
TAMS: (2) Yrs (7) Mos (16) Das

- 4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01 Apr 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Enlisted Performance Report.
3. Letter of Evaluation.
4. Recommendation for Special One Day Pass.
5. Two Character References.

17MAY05/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

PD2005-00145

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1: Enlisted Performance Report

b. DOCUMENT 2: Personal character letter

c. DOCUMENT 3: letter of evaluation "Honor Guard"

B. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I would like to be considered for a up grade of discharge by the board of Review for the following reasons. I know my actions were wrong. But the truth is that i had a problem with Alcohol, a problem that cost me my military career. Outside of my problems alcohol brought me I was considered a sharp Airmen. I was part of the base honor guard, volunteer for everything I could and did great at work. I miss the air force, but I have decided to not let this be the reason why my live should be over. I have goals that I still want to achieve, the reasons I have to ask for an upgrade are because my citizenship may depend on it, also I want to go school and become a physical therapist. Right now I don't have the money to do so, and if I got an upgrade I could use my g.I bill. A lot of scholarships that I could get I don't qualified because I am not a U.S. citizen. And loans I can't get right now because I have to pay my loans back. Right now I work as a personal trainer at An h.A. Fitness, My long term goal is to open my own gym. I want to make something great out of my life. But I need your help, with this opportunity I know I can do it. Please hear my case out. I have gotten help with the A.D.A.P.T program and I'm now Alcohol free. I haven't taken a step forward I'm taking one. I take college class right now, that's all I can afford right now. Please help me get ahead and not let this shut to my future.

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

b. SIGNATURE

2005/04/01

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-G Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20583-0001



DEPARTMENT OF THE AIR FORCE

796TH CIVIL ENGINEER SQUADRON
EGLIN AFB, FLORIDA 32542

18 Jan 05

MEMORANDUM FOR AMN

FROM: 796 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: 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 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. You did, at or near Eglin Air Force Base, Florida, on or about 11 October 2004, at or near the entry control point of the East Gate, physically control a vehicle, to wit: a passenger car, while drunk. For this offense you received nonjudicial punishment, dated 15 November 2004.
- b. You, who knew of your duties at or near Eglin Air Force Base, Florida, on or about 6 March 2004, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the age of twenty-one (21), as it was your duty to do.

You did, at or near Eglin Air Force Base, Florida, on or about 6 March 2004, at or near the entry control point of the West Gate physically control a vehicle, to wit: a passenger car while the alcohol concentration in your breath was 0.195 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis.

For these offenses you received nonjudicial punishment, dated 10 April 2004.

3. 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 _____ at 904 N. 2nd Street, on 19 JAN 05, at 1330 hours. 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 **within 3 duty days** 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.
7. You have been scheduled for an appointment with the 96th Mission Support Squadron Separations Section on 19 JAN 05, at 1500 hours.
8. After your briefing, you are to report to the 96th Traffic Management Office with an authorized letter from separations to schedule your TMO pickup.
9. You are required to receive a briefing from the Family Support Center prior to your separation. You have been scheduled to receive your Transition Assistance Management Program (TAMP) briefing on 25 JAN 05, at 1200 hours.
10. You have been scheduled for a medical examination. You must report to 96 MDG Force Health Management, 307 Boatner Rd. on 19 JAN 05, at 0715 hours for the examination.
11. 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 at 796 CES/CCQ.
12. Execute the attached acknowledgment and return it to me immediately.

, Lt Col, USAF
Commander

Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum