

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE AB	AFSN/SSAN
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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 A94.06	INDEX NUMBER A 67.50	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 17 Jan 2006	CASE NUMBER FD-2005-00246	
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APPLICANT'S STATEMENT CONCERNING THE BOARD'S DECISION ON HIS/HER APPEAL

Case heard at Washington, D.C.

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

* CHANGE RE CODE TO 3K
 + CHANGE REASON AND AUTHORITY FOR DISCHARGE

SIGNATURE OF RECORDER / <i>[Signature]</i>	SIGNATURE OF BOARD PRESIDENT / <i>[Signature]</i>
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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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00246

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reenlistment code and change the reason and authority for discharge.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 17 Jan 2006.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Two Certificates

Exhibit 6: Character reference letter

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

FINDINGS: The Board partially grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge reason and authority. However, based upon the record and evidence provided by applicant, the Board finds the applicant's discharge service characterization inequitable and believes his RE code should be changed.

ISSUE: The applicant argued, and the Board determined, that under the facts of the applicant's case, his discharge service characterization was inequitable. The Board was convinced that the applicant had committed misconduct which was the reason for his discharge. The applicant presented extensive extenuation and mitigation evidence, and, under the particular facts of his case, the board decided his misconduct did not overshadow the overall quality of his service to the Air Force. Therefore, it was decided to upgrade the service characterization but to leave the reason for discharge undisturbed. Because the board found that an honorable service characterization was more appropriate and because the board was impressed by the respondent's personal growth, post-service accomplishments and profound insight into his own past misconduct, the Board decided a change in RE code was also warranted.

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 the overall quality of the applicant's service is more accurately reflected by an Honorable discharge. The applicant's characterization should be changed to Honorable under the provisions of Title 10, USC 1553 and his re-enlistment code should be changed to 3K.

Attachment:

Examiner's Brief

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

(Former AB) (HGH AM)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Ellsworth AFB, SD on 30 Oct 96 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 Discharge.

2. **BACKGROUND:**

a. DOB: 28 Jun 74. Enlmt Age: 20 9/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-63, E-53, G-62, M-47. PAFSC: 2W131 - Aircraft Armament Systems Apprentice. DAS: 8 Aug 95.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 6 Apr 95 for 4 yrs. Svd: 1 Yrs 6 Mo 25 Das, all AMS.

b. Grade Status: AB - 28 Jun 96 (Article 15, 22 Aug 96)
Amn - 6 Oct 95

c. Time Lost: None.

d. Art 15's: (1) 22 Aug 96, Vacation, Ellsworth AFB, SD - Article 134. You, did, on divers occasions between on or about 3 May 96 and on or about 6 Aug 96, wrongfully have sexual intercourse with , a married woman not your wife. Reduction to AB. (No appeal) (No mitigation)

(2) 28 Jun 96, Ellsworth AFB, SD - Article 134. You, did, on or about 15 May 96, utter to the Ellsworth AFB Army and Air Force Exchange Service a certain check in the amount of \$149.15, dated 15 May 96, drawn upon Fort Sill Nations Bank, made payable to Ellsworth AFB Army and Air Force Exchange Service, and signed , for the purchase of things of value, and did thereafter dishonorably fail to maintain sufficient funds in said bank for payment of said check in full upon its presentment for payment. Suspended reduction to AB. Thirty days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 17 APR 96 - Missed roll call.
RIC, 05 APR 96 - Dereliction of duty.
LOR/UIF, 01 MAR 96 - Malingering.
RIC, 09 FEB 96 - Late for duty.

RIC, 22 DEC 95 - Financial irresponsibility.

f. CM: Summary Court Martial - 19 Sep 96

CHARGE I: Article 134. Plea: Guilty. Finding: Guilty.

Specification: In that Airman _____, USAF, 37th Bomb Squadron, did, within the territorial limits of South Dakota, between on or about 3 May 96 and on or about 7 Aug 96, wrongfully have sexual intercourse with _____, a married woman not his wife. Sentence adjudged on 12 Sep 96: Forfeiture of \$580 pay, 1 month hard labor without confinement, and 1 month restriction to Ellsworth AFB.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (01) Yrs (06) Mos (25) Das
TAMS: (01) Yrs (06) Mos (25) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 22 Mar 05.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I feel that I was used to set an example. My squadron commander was new, and also a very religious man, that he didn't hide. At the time of my Summary Court Martial two other military members, were not discharged, but reduced in rank and had to stay on base for a month. I was discharged, but before that I was reduced in rank had (sic) to stay on base. I feel that my career was cut short for convictions of another person views (sic). I would of made a career of the Air Force. I want my RE Code changed and discharge type upgraded please. I would like to rejoin the ranks of our military. I would like to join the Army.

ATCH
None.

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FD 2005-00246



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 28TH OPERATIONS GROUP (ACC)
ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

15 OCT 1996

MEMORANDUM FOR AB

FROM: 37 BS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct. The authority for this action is AFI 36-3208, paragraph 5.50.2, Conduct Prejudicial to Good Order and Discipline. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. You, did, between on or about 3 May 96 and on or about 7 Aug 96, wrongfully have sexual intercourse with a married woman not your wife. For your actions, you were convicted by a summary court-martial on 12 Sep 96. In addition, you committed this act while under suspended punishment. That portion of your suspended punishment for reduction to Airman Basic was vacated on 23 Aug 96.

b. On or about 15 May 96, you wrote a check to the Ellsworth base exchange in the amount of \$149.15, and dishonorably failed to maintain sufficient funds in the bank for payment of the check. For your actions, you received an Article 15 dated 28 Jun 96.

c. On 6 Apr 96 and 8 Apr 96 you missed roll call. During the Phase II of the Operational Readiness Inspection, you were not at your appointed place of duty. For your actions, you received a Letter of Reprimand (LOR) dated 17 Apr 96.

d. On or about 5 Apr 96, you were derelict in your duties, as you did not comply with Technical Order 1B-1B-33-2-1, Module Loading, by ensuring the lower jaw of an aft launcher assembly was completely locked. For your actions, you were given a Letter of Counseling (LOC) dated 5 Apr 96.

e. On 10 Feb 96, you were placed on a profile by Dr. () for not lifting over ten pounds, stooping or climbing. On 11 Feb 96, you were witnessed by two individuals at the base fitness center lifting weights while still on profile. For your actions, you received an LOR dated 1 Mar 96.

f. On 9 Feb 96, you reported late for duty. For your actions you received an LOC dated 9 Feb 96.

g. On 6 Dec 95, the first sergeant received a delinquent notice of your club account. Again on 18 Dec 95, another delinquent notice was received by the first sergeant. On the same date, a notice was received on an overdue library video in your possession. For your actions, you received an LOC dated 22 Dec 95.

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 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.

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4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I made an appointment for you to consult Capt Area Defense Counsel, 5-2158, Bldg 2405 on 15 Oct 96 at ~~1400~~ ¹⁴³⁰ hrs. You may consult civilian 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 by 18 Oct 96 unless you request and receive an extension for good cause shown. I will send any matters you submit 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 a medical examination. You must report to the Physical Exams Section of the Base Hospital at 0715 hrs on 16 Oct 96 for the examination. This is a mandatory appointment, and you must be in uniform. For the examination, fast for 14 hours prior to the examination, if you wear glasses, bring them, and if you wear contacts, remove them 24 hours prior to 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 your orderly room.
9. Execute the attached acknowledgment and return it to me immediately.

Commander, 37 BS

Attachments:

1. Supporting documents
 - a. Record of Trial by Summary Court-Martial - 12 Sep 96 and Vacation Action - 23 Aug 96
 - b. Article 15 - 28 Jun 96
 - c. LOR - 17 Apr 96
 - d. LOC - 5 Apr 96
 - e. LOR - 1 Mar 96
 - h. LOC - 9 Feb 96
 - g. LOC - 22 Dec 95
2. Airman's Acknowledgment