

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">COUNSEL</th> <th style="width: 80%;">NAME OF COUNSEL AND OR ORGANIZATION</th> <th style="width: 10%;">ADDRESS AND OR ORGANIZATION OF COUNSEL</th> </tr> <tr> <td style="padding: 5px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">YES</th> <th style="width: 50%;">No</th> </tr> <tr> <td style="text-align: center; padding: 5px;">X</td> <td></td> </tr> </table> </td> <td style="padding: 5px;"></td> <td style="padding: 5px;"></td> </tr> </table>	COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">YES</th> <th style="width: 50%;">No</th> </tr> <tr> <td style="text-align: center; padding: 5px;">X</td> <td></td> </tr> </table>	YES	No	X					
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YES	No											
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MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
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ISSUES A94.53	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 20px; 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 25 May 2006	CASE NUMBER FD-2005-00343	
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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.

* CHANGE RE CODE
 + CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT DATE: **5/31** 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00343

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: The discharge is upgraded to honorable. Change of reason and authority for discharge, and change of reenlistment code are denied.

ISSUE: Applicant received a General discharge for Misconduct – Minor Disciplinary Infractions

Applicant contends discharge was inequitable because he was kicked out due to Force Shaping, had it not been for Force Shaping he would not have received the Article 15 and been kicked out, and that by being stationed at Randolph AFB it was more likely that he would receive a “bad discharge” than if he had been assigned somewhere else. The records indicated the applicant received two Article 15s for misconduct to include assaulting another airman while in Technical School by putting castor oil in his drink, and one for DUI at his first duty assignment. Although there is no evidence in applicant’s records that his issues have merit, the DRB opined that although the misconduct was serious, the characterization of his discharge was too harsh. Applicant’s Records revealed that when applicant processed in at his new base, he was put on notice by his Squadron Commander that he was considering retaining him under Force Shaping but that his behavior would be closely followed. Shortly thereafter, applicant received an Article 15 for operating a motor vehicle while the alcohol concentration in his blood was .10 grams of alcohol per 100 milliliters of blood. Applicant was notified approximately six weeks later that he was being recommended for an administrative discharge and applicant’s records reveal no evidence of any kind of probation and/or rehabilitation having been undertaken/offered. Although the Board opined the applicant’s discharge should be upgraded to an Honorable, the Board felt that the reason and authority and the reenlistment code were appropriate and should not be changed due to the short duration of time since applicant’s discharge and the fact that applicant did commit misconduct resulting in two Article 15s in a relatively short period of time.

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 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.

Attachment:
Examiner's Brief

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

(Former AB) (HGH AMN)

MISSING MPR & SMR

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Randolph AFB TX on 13 Sep 04 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: 18 Jul 83. Enlmt Age: 19 11/12. Disch Age: 21 1/12. Educ: HS DIPL. AFQT: N/A. A-80, E-85, G-78, M-88. PAFSC: 3C231 - Communications Computer Systems Control Apprentice. DAS: 28 Jul 04.

b. Prior Sv: (1) AFRes 30 Jun 03 - 15 Sep 03 (2 Mos 16 Das) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AMN 16 Sep 03 for 4 years. Svd: 00 Yrs 11 Mo 28 Das, all AMS.

b. Grade Status: AB - 11 Aug 04 (Article 15, 11 Aug 04)
AMN - 16 Sep 03

c. Time Lost: None.

d. Art 15's: (1) 11 Aug 04, Randolph AFB, TX - Article 111. You, did, at or near Laughlin AFB, TX, on or about 18 Jul 04, physical operate a vehicle, to wit: a passenger car, while the alcohol concentration in your blood was .10 grams of alcohol per 100 milliliter of blood or greater as shown by chemical analysis. Reduction to AB and reprimand. (No appeal) (No mitigation)

(2) 15 Mar 04, Keesler AFB, MS - Article 128. You, did, on or about 27 Jan 04, assault AB [redacted] by putting castor oil in his drink. Suspended reduction to AB. Forfeiture of \$300.00 pay and Reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (01) Yrs (02) Mos (14) Das
TAMS: (00) Yrs (11) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 24 Aug 05.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority
for Discharge.)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's issues.

10Nov05/day

26 AUG 2005

FD 2005-00343

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES <i>(Please read instructions on Pages 3 and 4 BEFORE completing this application.)</i>		<i>Form Approved OMB No. 0704-0004 Expires Aug 31, 2006</i>
<small>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 the Department of Defense, Executive Services and Communications Directorate (0704-0004). 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 ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.</small>		
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 <i>(The person whose discharge is to be reviewed).</i> PLEASE PRINT OR TYPE INFORMATION.		
a. BRANCH OF SERVICE <i>(X one)</i>		<input type="checkbox"/> ARMY <input type="checkbox"/> MARINE CORPS <input type="checkbox"/> NAVY <input checked="" type="checkbox"/> AIR FORCE <input type="checkbox"/> COAST GUARD
b. NAME <i>Last, First, Middle Initial</i>		c. GRADE/RANK AT DISCHARGE <div style="text-align: center; font-size: 1.2em;">E 1</div>
		d. SOCIAL SECURITY NUMBER
2. DATE OF DISCHARGE OR SEPARATION <i>(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)</i> 20040913		4. DISCHARGE CHARACTERIZATION RECEIVED <i>(X one)</i>
		<input type="checkbox"/> HONORABLE <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION AETC CSS RANDOLPH AFB TX		5. BOARD ACTION REQUESTED <i>(X one)</i>
		<input checked="" type="checkbox"/> CHANGE TO HONORABLE <input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i> <input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST <i>(Continue in Item 14. See instructions on Page 3.)</i> I RECEIVED A DUI ON JUL 18 2004, AND FOR THAT TIME I WAS KICKED OUT OF THE AIR FORCE DURING FORCE SHAPING, AND I BELIEVE IF THE AIR FORCE HAD NOT BEEN DOING THE FORCE SHAPING THAT I WOULD		
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: <i>(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)</i>		
9. TYPE OF REVIEW REQUESTED <i>(X one)</i>		
<input checked="" type="checkbox"/> CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR <i>(counsel/representative)</i> WILL NOT APPEAR BEFORE THE BOARD.		
<input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.		
<input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO <i>(enter city and state)</i> <small>(NOTE: The Navy Discharge Review Board does not have a traveling panel.)</small>		
10.a. COUNSEL/REPRESENTATIVE <i>(if any) NAME (Last, First, Middle Initial) AND ADDRESS</i> <small>(See Item 10 of the instructions about counsel/representative.)</small>		b. TELEPHONE NUMBER <i>(Include Area Code)</i>
		c. E-MAIL
		d. FAX NUMBER <i>(Include Area Code)</i>
11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. <i>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 the name (print) and relationship by marking a box below.</i>		
<input type="checkbox"/> SPOUSE <input type="checkbox"/> WIDOW <input type="checkbox"/> WIDOWER <input type="checkbox"/> NEXT OF KIN <input type="checkbox"/> LEGAL REPRESENTATIVE <input type="checkbox"/> OTHER <i>(Specify)</i>		
12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE <small>(Forward notification of any change in address.)</small>		b. TELEPHONE NUMBER <i>(Include Area Code)</i>
		c. E-MAIL
		d. FAX NUMBER <i>(Include Area Code)</i>
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. <i>(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.)</i>		CASE NUMBER <i>(Do not write in this space.)</i> FD 2005-00343
a. SIGNATURE - REQUIRED <i>(Applicant or person in Item 11 above)</i>		b. DATE SIGNED - REQUIRED <i>(YYYYMMDD)</i> 2005 08 24

<p>NAVY AND MARINE CORPS Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>	<p>ARMY Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p>
<p>COAST GUARD U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p>	<p>AIR FORCE Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

14. CONTINUATION OF ITEM 6, ISSUES (if applicable) HAVE NOT RECEIVED AN ARTICLE AND I WOULD HAVE NOT BEEN KICKED OUT. I RECEIVED A GENERAL-UNDER HONORABLE CONDITIONS DISCHARGE. I RECEIVE THAT I CAN STILL BE A PRODUCTIVE MEMBER OF THE ARMED FORCES. MY WIFE IS STILL IN THE AIR FORCE, AND I WANT TO BE ABLE TO GET BACK IN AND START OVER. EVERYONE MAKES MISTAKES AND I MADE ONE, I KNOW WHAT I DID WAS TOTALLY UNACCEPTABLE, BUT I STILL BELIEVE THAT I CAN BE A GREAT ASSET TO THE MILITARY. ALSO BEING STATIONED AT RANDOLPH AFB, IT IS MORE LIKELY YOU WILL RECEIVE A 'BAD' DISCHARGE THAN IF YOU WERE ASSIGNED ELSEWHERE.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (if applicable) CONTINUE FROM SECTION 14 PLUS!
 MY DISCHARGE IS INEVITABLE.

16. REMARKS (if applicable)



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

24 AUG 2004

MEMORANDUM FOR AB: [REDACTED]

FROM: AETC CSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is Air Force Policy Directive 36-32 and Air Force Instruction 36-3208, Chapter 5, Paragraph 5.49. If my recommendation is approved, your service will be characterized as Honorable or Under Honorable Conditions (General). I am recommending your service be characterized as Under Honorable Conditions (General).
2. My reasons for this action are as follows:
 - a. In violation of the UCMJ, Art 128, you did, at or near Keesler Air Force Base, Mississippi, on or about 27 Jan 04, assault Airman Basic [REDACTED] by putting castor oil in his drink. For this misconduct, you received an Article 15, dated 15 Mar 04.
 - b. In violation of the UCMJ, Art 111, you did, at or near Laughlin Air Force Base, Texas, on or about 18 Jul 04, physically operate a vehicle, to wit: a passenger car, while the alcohol concentration in your blood was .10 grams of alcohol per 100 milliliters of blood or greater as shown by chemical analysis. For this misconduct, you received an Article 15, dated 11 Aug 04.
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 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. 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. An appointment has been made for you to consult Capt [REDACTED], Area Defense Counsel (ADC), Bldg 399, Randolph AFB (652-2274) or another ADC on 24 Aug 04 at 1300. 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 by 27 Aug 04 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 a medical examination. You must report to the Randolph AFB Clinic, Records Section at 0730 on 26 Aug 04. You will be seen by Dr. _____. Report 15 minutes early.
8. You must report to 12 MSS/DPMARS (Separations), 12 MSS/FMFC (Finance), 12 CES/CEH (Base Housing), and 12 MSS/DPS (Family Support Center) within 24 hours of this notification to inform them of your pending separation.
9. 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 unit orderly room.
10. Execute the attached acknowledgment and return it to me immediately.



Commander, AETC Computer Systems Squadron

Attachments:

1. AF Form 3070 dated 15 Mar 04 (w/ atchs, if any)
2. AF Form 3070 dated 11 Aug 04 (w/ atchs, if any)