

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 A1C	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE	GEN	PERSONAL APPEARANCE	X	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
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
					X
					X
					X
					X

ISSUES A94.53	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 05 Jun 2006	CASE NUMBER FD-2005-00407	
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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.

X - Upgrade and Change RE Code

SIGNATURE OF RECORDER <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>	SIGNATURE OF BOARD PRESIDENT <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>
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INDORSEMENT	DATE: 8/2/2006
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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-2005-00407

GENERAL: The applicant appeals for upgrade of discharge to Honorable and Change RE 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: Upgrade of discharge is denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE: Applicant received General discharge for Misconduct - Minor Disciplinary Infractions

The applicant submitted no issues of inequity or impropriety. The records indicate the applicant received two Letters of Reprimand and an Article 15 for misconduct. The misconduct included under-aged drinking, drunk and disorderly and driving under the influence (DUI). The board opined that through these administrative actions the applicant had ample opportunities to change his behavior. The board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found appropriate.

The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on 17 August 2001) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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.

In view of the foregoing findings the Board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:
Examiner's Brief

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

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF McGuire AFB, NJ on 14 May 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 3 Aug 82. Enlmt Age: 18 3/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-51, E-57, G-59, M-79. PAFSC: 2T251 - Air/Transportation Journeyman. DAS: 10 Jun 02.

b. Prior Sv: (1) AFRes 30 Nov 00 - 31 Jul 01 (8 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 1 Aug 01 for 4 yrs. Svd: 02 Yrs 09 Mo 14 Das, all AMS.

b. Grade Status: A1C - 19 Jul 03
Amn - 19 Sep 02 (Article 15, 19 Sep 02)
A1C - 01 Aug 01

c. Time Lost: None.

d. Art 15's: (1) 19 Sep 02, McGuire AFB, NJ - Article 92. You, who knew of your duties, on or about 29 Aug 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol while under the age of 21, in violation of AFI 34-219, paragraph 1.1.2, dated 9 Sep 98, and New Jersey Statutes Annotated, Title 9:17B-1, as it was your duty to do. Article 111. You did, on or about 29 Aug 02, in the parking lot of Building 2424, operate a vehicle, to wit: a passenger car, while under the influence of alcohol, in violation of New Jersey Statutes Annotated, Title 39:4-50. Reduction to Airman. Suspended forfeiture of \$300.00 pay per month for 2 months. Thirty days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 9 APR 04 - Civil arrest for not using a turn signal, driving under the influence of alcohol, and refusing to submit to a BAT.
LOR/CR, 21 JUL 03 - Underage drinking, drunk and disorderly conduct.

f. CM: None.

g. Record of SV: 13 Sep 01 - 12 May 03 McGuire AFB 4 (Initial)
13 May 03 - 25 Feb 04 McGuire AFB 3 (CRO)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (05) Mos (14) Das
TAMS: (02) Yrs (09) Mos (14) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Oct 05.
(Change Discharge to Honorable)

Issue 1: I am requesting a change in my discharge status because it would greatly help to further my civilian career and so that I can re-apply for GI Benefits. I am currently part-time at the Home Depot and attending full time at Glendale Community College in Glendale, Arizona. Changing my discharge status to Honorable will also give me a better reference when I apply for future positions in fire departments. I would also like to have the future option of re-enlisting in the military. I do not feel that I deserved the discharge I received.

ATCH

1. DD Forms 214/215.
2. Verification of Military Experience and Training.
3. Enlisted Performance Report.
4. Memorandum For 305 APS/CC, 3 May 04.

13DEC05/ia



DEPARTMENT OF THE AIR FORCE
AERIAL PORT SQUADRON
MCGUIRE AFB, NEW JERSEY 08641

APR 28 2004

MEMORANDUM FOR A1C: [REDACTED]

FROM: 305 APS/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 reasons for this action are:

a. You received an Article 15, dated 19 Sep 02 for the following offenses:

1) On or about 29 Aug 02, you failed to refrain from consuming alcohol while under the age of 21.

2) On or about 29 Aug 02, you failed to refrain operating a vehicle while under the influence of alcohol.

For this misconduct, you received a reduction to the grade of E-2 (Airman), suspended forfeiture of \$300.00 pay per month for two months, 30 days extra duty, and a reprimand. As a result of these actions an Unfavorable Information File (UIF) was established.

b. On or about 27 Jun 03, you were apprehended for underage drinking and drunk and disorderly conduct, as evidenced by a Letter of Reprimand (LOR), dated 21 Jul 03. This action was added to your UIF.

c. On or about 3 Apr 04, you were arrested and cited for not using your turn signal, driving under the influence of alcohol, and refusing to submit to a BAT, as evidenced by LOR, dated 9 Apr 04. This action was added to your UIF.

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.

3. 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 2906 Room 116, on 29 APR 04, at 0930 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 3 May 24 unless you request and receive an extension for good cause shown. I will send them to the separation authority.
5. 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.
6. You have been scheduled for a medical examination. You must report to Ambulatory Health Care Clinic, McGuire AFB on 30 May 24, at 1400 hours for the examination.
7. 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 your Squadron orderly room.
8. Execute the attached acknowledgment and return it to me immediately.

[Redacted Signature Box]

Commander

Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum