

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
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
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<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
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ISSUES A92.21 A92.01 A94.05 A92.05	INDEX NUMBER A67.30	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 28 Jul 2006	CASE NUMBER FD-2005-00437	
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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.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
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ENDORSEMENT DATE: 7/31/2006

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, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00437

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

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 that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received a Letter of Reprimand and Unfavorable Information File for conspiracy to defraud the United States Government through the falsification of federal income tax returns. 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 to be appropriate.

Issue 2. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

Issue 3. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 4. 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 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 Vandenberg AFB, CA on 23 Dec 96 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Jun 74. Enlmt Age: 18 0/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-80, E-77, G-78, M-57. PAFSC: 6F032 - Financial Services Apprentice. DAS: 2 Jun 95.

b. Prior Sv: (1) AFRes 29 Jun 92 - 17 Nov 92 (4 months 19 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 18 Nov 92 for 4 yrs. Extended on 10 May 95 for 7 months. Svd: 04 Yrs 01 Mo 06 Das, all AMS.

b. Grade Status: A1C - 18 Mar 94
Amn - 18 May 93

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR/UIF, 17 JUN 96 - Conspiracy to defraud the U.S. Government through the falsification of federal income tax returns.

f. CM: None.

g. Record of SV: 18 Nov 92 - 17 Jul 94 McGuire AFB 4 (Initial)
18 Jul 94 - 30 May 95 McGuire AFB 4 (CRO)

h. Awards & Decs: AFLSAR, AFTR, NDSM, BMTHGR, SAEMR, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (05) Mos (25) Das
TAMS: (04) Yrs (01) Mos (06) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 04 Nov 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Five Character References.
3. Victim Impact Statement.
4. Training Certificate.
5. The Honor Graduate Ribbon.
6. Training Certificate.
7. Four Letters of Appreciation.
8. Five Certificates of Appreciation.
9. Two Enlisted Performance Reports.
10. Job Performance Appraisal.
11. DD Form 214.
12. Request and Authorization for Separation.

16DEC05/ia

14 NOV 2005

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 X AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE d. SOCIAL SECURITY NUMBER
 E-3/A1C

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)
 19961223

4. DISCHARGE CHARACTERIZATION RECEIVED (X one)
 X HONORABLE
 GENERAL/UNDER HONORABLE CONDITIONS
 UNDER OTHER THAN HONORABLE CONDITIONS

5. BOARD ACTION REQUESTED (X one)
 X CHANGE TO HONORABLE
 CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
 CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
 CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION
 30 Comptroller (AFSPC)
 Vandenberg AFB, CA

BAD CONDUCT (Special court-martial only)
 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 a General (Under Honorable Conditions) discharge does not reflect my service while in the United States Air Force. I am requesting an upgrade to Honorable in reference to my conduct in the USAF and my conduct as a civilian since 23Dec96. My discharge was inequitable because it was based on an isolated incident in 49 months of service with no other adverse action. There wasn't pending administrative action from my commander at McGuire AFB, NJ and believe that if I wouldn't have voluntarily

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.)

9. TYPE OF REVIEW REQUESTED (X one)

X 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) (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 the name (print) 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. E-MAIL
 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.)
 CASE NUMBER (Do not write in this space.)
 FD 2005-00437

a. SIGNATURE (Print name above)
 b. DATE SIGNED - REQUIRED (YYYYMMDD)
 20051104

14. CONTINUATION OF ITEM 8, ISSUES (If applicable)

given information concerning the incident at McGuire AFB, NJ out of a sense of duty to the Office of Special Investigation(OSI) at Vandenberg AFB, CA, I wouldn't have received an Administrative Discharge. Consequently the voluntary information concerning this matter ended up becoming a double jeopardy for myself. After releasing that information to my new base, I was withheld from my E-4 stripe, given a Letter of Reprimand, and Administratively Discharged with a General(Under Honorable Conditions) from Vandenberg AFB, CA eliminating any Veterans Affairs and educational benefits. In addition, no one else from McGuire AFB, NJ that had involvement in this incident was reprimanded and/or discharged. They have all since continued in their military and civilian careers receiving Veterans Affairs and educational benefits. I believe this was an isolated mistake on my part but does not reflect my overall 49 months of military service.

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

16. REMARKS (If applicable)

I believe that a General (Under Honorable Conditions) discharge does not reflect my service while in the United States Air Force. I am requesting an upgrade to Honorable in reference to my conduct in the USAF and my conduct as a civilian since 23Dec96. While in the USAF I was an Honor Graduate from BMTS was a Small Arms Expert Marksman and recieved the Air Force Good Conduct Medal. Since my discharge in 1996 I have pursued my career and have been successful in many arenas. I graduated as Salutatorian in 2000 with a Degree of Ministerial Studies from Destiny Ministry Training Center. I served as an Associate/Youth Pastor at Spokane Faith Center counseling children, young adults and couples for 4 years. I am currently continuing my education with the goal of obtaining my Bachelor's Degree in Business Management from Oregon State University. I have been an outstanding citizen within my community and have since made restitution with the IRS. I am a single father of one child (Anthony), work full time at Samaritan Albany General Hospital as the Administrative Secretary and attend college on a full time basis. I am currently a member of the Employee Recognition Committee at Samaritan Albany General Hospital which helps build the morale of the staff. I have maintained a 3.12 Grade Point Average and am starting my own business. I testified in 2000 in the United States District Court, Eastern District of Pennsylvania in the criminal trial of United States v. [redacted] and [redacted] which led to a guilty verdict of [redacted] on all 9 counts of aiding and abetting the filing of false claims for refunds. My conduct in the civilian sector has been exemplary and I feel that my service in the United States Air Force was worthy of an Honorable Discharge. I thank you and appreciate your time in reviewing this information.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

<p align="center">ARMY</p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-6200 (See http://arba.army.pentagon.mil)</p>	<p align="center">NAVY AND MARINE CORPS</p> <p>Naval Council of Personnel Boards 720 Kannon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>
<p align="center">AIR FORCE</p> <p>Air Force Review Boards Agency SAF/MRBR 660-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p align="center">COAST GUARD</p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5600 Washington, DC 20593</p>

Memorandum

To: Air Force Review Boards Agency

From:

Date: 7/5/2005

Re: Discharge Upgrade

I am writing this memo in regards to the **General (Under Honorable Conditions)** discharge given me on 23Dec96. I am requesting an upgrade to an **Honorable** discharge.

Since my discharge in 1996 I have pursued my career and have been successful in many arenas. I graduated in 2000 with an Associates degree of Ministerial Studies from Destiny Ministry Training Center. I served as an associate/youth pastor for Spokane Faith Center for 4 years. I am also continuing my education with the goal of obtaining my Bachelor's Degree in Business Management from Oregon State University.

I contacted the Veterans Affairs office to request assistance through the Montgomery GI Bill that I was enrolled the first year of active duty. I contributed \$100/month for 12 months and was entitled to receiving this educational assistance upon discharge. However, with my discharge being the status of **General (Under Honorable Conditions)**, I cannot receive the benefits that I contributed to.

I am a single father of one child (Anthony) and have found that working 40 plus hours a week and going to school full time has been challenging both mentally and financially. Receiving the entitlement that I voluntarily participated in would help me tremendously in my pursuit for educational excellence and financial freedom.

In asking for an upgrade to my discharge, I feel that my conduct in the civilian world has been an example for most to live by. I am appealing to your fair judgment to allow me to receive an **Honorable** discharge, as my conduct, as you will see with the attached documents and performance reviews, warrants an **Honorable** status.

Thank you for your time in reviewing this information and thank you in advance for allowing me to receive a status that brings honor to myself, my son, my family and the United States Air Force.

Sincerely,





DEPARTMENT OF THE AIR FORCE

30TH SPACE WING (AFSPC)



13 Dec 96

MEMORANDUM FOR A1C [REDACTED]

FROM: 30 CPTS/CC

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

1. I am recommending your discharge from the United States Air Force for commission of a serious offense. The authority for this action is AFDP 36-32 and AFI 36-3208, Paragraph 5.52.3. If my recommendation is approved, your discharge may be characterized as honorable, general under honorable conditions and under other than honorable conditions. I am recommending that your discharge be characterized as general.
2. My reasons for this action are: During the approximate periods of December 1993 through April 1994, and December 1994 through May 1995, you were involved in a conspiracy to defraud the United States Government through the falsification of federal income tax returns. Specifically, in 1994 and 1995, you filed fraudulent tax returns, claimed dependents you do not have, and received moneys that you were not entitled to. In addition, you recruited seven individuals during 1994 and 1995 to also file fraudulent tax returns. During these periods, you repeatedly failed to report crimes against the United States upon witnessing and being informed of the illegal activities surrounding the falsified tax returns. As a result of your criminal actions, both you and your coconspirators illegally profited thousands of dollars that belonged to the United States government. Extracts from the AFOSI report into this matter are attached to document your misconduct, for which you received a letter of reprimand.
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 and, if discharge action is approved, how your discharge will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Furthermore, any special pay, bonuses, or education assistance you have received 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 Capt: [REDACTED] at the Area Defense Counsel, Building 8500, ext. 6-3627/28, at 0930 hours on 16 Dec 96. You may consult civilian counsel at your own expense.
5. You have the right to submit matters on your own behalf. Any matters you wish to submit for consideration by the separation authority must reach me within 3 duty days unless you request

and receive an extension from me for good cause shown. I will forward any matters submitted by you to the separation authority.

6. If you fail to consult counsel or to submit matters in your own behalf within 3 duty days without an approved extension, your failure will constitute a waiver of your right to do so.
7. Any personal information you furnish in rebuttal to this action is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the office of the Area Defense Counsel, Building 8500.
8. Execute the attached acknowledgment and return it to me immediately.



Commander

Attachments:

1. Extracts from OSI report
2. LOR, dtd 17 Jun 96
3. Withhold of promotion ltr, dtd 15 Nov 95