

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				
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL					
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">YES</td> <td style="width:50%; padding: 2px;">No</td> </tr> <tr> <td style="text-align: center; padding: 2px;">X</td> <td style="padding: 2px;"></td> </tr> </table>	YES	No	X				
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
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					X

ISSUES A94.53 A92.21 A93.01	INDEX NUMBER A67.30	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; 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 05 Jun 2006	CASE NUMBER FD-2005-00472	
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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.

Upgrade of RE Code and Reason and Authority are also denied.

SIGNATURE OF RECORDER <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	SIGNATURE OF BOARD PRESIDENT <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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INDORSEMENT **DATE: 6/5/2006**

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**FD-2005-00472**

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: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are 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: Applicant received a General discharge for Misconduct – Commission of a Serious Offense

Issue 1. Applicant states he was never in trouble before the Air Force, has not been in trouble since his discharge, has graduated college, has held two long-term jobs since his release and is now a massage therapist, and considers himself an upstanding citizen who will do whatever it takes to make things right if given another chance. The records indicated the applicant received a Special Court Martial conviction for two counts of falsely pretending to commercial organizations that he was someone else in order to obtain internet access service and international telephone service. The Board found no inequity or impropriety in his discharge and concluded the willful misconduct was a significant departure from conduct expected of all military members and found the misconduct of the applicant appropriately characterized his term of service.

Issue 2. Applicant contends he is trying to reenlist into the Air Force and serve the rest of his career. He acknowledges that he made mistakes as a young airman and has been regretting being out of the Air Force ever since, serving in the Air Force was the best thing in his life and he ruined that with the mistakes he made, he was young and away from home for the first time and made some bad decisions, he made restitution for everything he did, admitted willingly to everything he did, and served his punishment. The DRB was pleased to see that the applicant was doing well and has a good job; however, no documentation was furnished to support applicant's contentions and these are not matters 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, reason and authority for the discharge, and reenlistment code should not be changed.

Attachment:
Examiner's Brief

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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Wright-Patterson AFB, OH on 28 Aug 01 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 29 Apr 80. Enlmt Age: 18 4/12. Disch Age: 21 3/12. Educ: HS DIPL. AFQT: N/A. A-79, E-54, G-62, M-46. PAFSC: 2W031 - Munitions Systems Apprentice. DAS: 24 Mar 99.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 28 Sep 98 for 4 yrs. Svd: 02 Yrs 11 Mo 01 Das, of which AMS is 02 Yrs 08 Mos 17 Days (excludes 2 months 14 days lost time).

b. Grade Status: AB - 9 Apr 01 (SPCMO#5, 2 May 01)
A1C - 28 Jan 00
Amn - 28 Mar 99

c. Time Lost: 9 Apr 01 thru 22 Jun 01 (2 months 14 days).

d. Art 15's: None.

e. Additional: RIC, 06 SEP 00 - Failure to follow accident reporting procedures.
RIC, 27 JUL 00 - Taking work keys home.
RIC, 30 MAY 00 - Dereliction of duty.
LOR, 26 MAY 00 - Failed room inspection and poor maintenance of government property.
RIC, 18 NOV 99 - Failure to adhere to safety guidelines.
RIC, 01 OCT 99 - Dereliction of duty.
MFR, 05 AUG 99 - Failure to report back to work after a scheduled appointment.
RIC, 28 JUN 99 - Late for duty.
RIC, 07 MAY 99 - Failure to obey.
LOC, 30 MAR 99 - Failure to attend scheduled appointments.

f. CM: Special Court-Martial Order No.5 - 2 May 01

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

Specification 1: Did, at or near Kadena AB, Okinawa, Japan,

between on or about 1 May 00 and on or about 31 Jul 00, with intent to defraud, falsely pretend to Jens Corporation that he was A1C Chris A. Okiyama, then knowing that the pretenses were false, and by means thereof did wrongfully obtain from Jens Corporation services, of a value of about \$345.34, to wit: internet access service. Plea: Guilty, except the word and figure, "about \$345.34," and substituting therefor the words and figure, "more than \$100.00." Of the excepted word and figure, Not Guilty. Of the substituted words and figure, Guilty. Finding: Guilty, except the word and figure, "about \$345.34," and substituting therefor the words and figure, "more than \$100.00." Of the excepted word and figure, Not Guilty. Of the substituted words and figure, Guilty.

Specification 2: Did, at or near Kadena AB, Okinawa, Japan, between on or about 1 Jul 99 and on or about 15 Sep 99, with intent to defraud, falsely pretend to AT&T that he was A1C [] then knowing that the pretenses were false, and by means thereof did wrongfully obtain from AT&T services, of a value of a value of about \$2,155.52, to wit: international telephone service. Plea: Guilty. Finding: Guilty. Sentence adjudged by officer members on 9 Apr 01: Confinement for 90 days, forfeiture of \$500.00 pay per month for 6 months, and reduction to AB.

g. Record of SV: 28 Sep 98 - 27 May 00 Kadena AB 4 (Initial)
28 May 00 - 16 Feb 01 Kadena AB 3 (CRO)

h. Awards & Decs: AFOUA, AFOSLTR, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (08) Mos (17) Das
TAMS: (02) Yrs (08) Mos (17) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 30 Nov 05.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

26JAN06/ia

10 8 DEC 2005

APPLICATION FOR THE REVIEW OF DISCHARGE 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 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.

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	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE			d. SOCIAL SECURITY NUMBER	

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
2001/08/10	<input checked="" type="checkbox"/> HONORABLE <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS <input type="checkbox"/> BAD CONDUCT (Special court-martial only) <input type="checkbox"/> UNCHARACTERIZED <input type="checkbox"/> OTHER (Explain)	<input checked="" type="checkbox"/> CHANGE TO HONORABLE <input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) <input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

The reason I'm asking for a upgrade for my discharge is that I'm trying to re-enlist back into the Air Force and serve the rest of my career. I've been working with a recruiter and my local VA office and trying →

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)

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.
	d.

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.)

a. SIGNATURE (REQUIRED) (Applicant or person in item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.)
<i>Kili</i>	2005/11/30	FD 2005-00472

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

any possible way to serve again. During my time in I made a few mistakes as a young airman and everyday since I've been out I've been regretting them over since. There was nothing better in my life than serving and I ruined that by the mistakes that I made. I was young and my first time away from home and I made some bad decisions which don't excuse my actions but I take full responsibility for them. I gave full restitution for everything I did, admitted willingly to everything I did, and served my punishment. I never in my life got in trouble before or after the military. Since I've been out I held two long term steady jobs and graduated college, and am now a massage therapist. I consider myself a upstanding citizen and if given another chance would do whatever it takes to make things right.

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

16. REMARKS (If applicable)

I wanna thank to whoever it my concern for taking the time to review my discharge. There's nothing more in my life that I want but to be in the Air Force again. I want to raise a family and serve my country proudly again if given the chance. At a time like this in the world it bothers me just to watch TV when I could have been contributing to the mission. Again I wanna thank you for the review and considering me for a honorable upgrde so I can take the next steps on trying to fulfill my dreams.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES



24 JUL 2001

MEMORANDUM FOR AB: [REDACTED]

FROM: 18 MUNS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Commission of a Serious Offense - Other Serious Offenses. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.52.3. I am recommending that your service be characterized as under honorable conditions (general). If your discharge is approved, then I am further recommending that you not receive probation and rehabilitation.

2. My specific reasons for this action are:

a. Between on or about 01 May 00 and on or about 31 Jul 00, at or near Kadena Air Base, Okinawa, Japan, you did, with intent to defraud, falsely pretend to Jens Corporation that you were Airman First Class [REDACTED]; then knowing that the pretenses were false, and by means thereof, did wrongfully obtain, from Jens Corporation, services, of a value of more than \$100.00, to wit: internet access, in violation of Article 134, UCMJ. As a result, on or about 09 Apr 01, you plead and were found guilty by a Special Court-Martial. Your sentence, adjudged by officer members on 09 Apr 01, was Confinement for 90 days; Forfeiture of \$500.00 pay per month for 6 months; and, Reduction from the grade of Airman First Class (E-3) to the grade of Airman Basic (E-1). Pursuant to Article 64(a) of the UCMJ, your sentence was reviewed by Lt Col [REDACTED]; USAF, Deputy Staff Judge Advocate, Headquarters, Fifth Air Force (PACAF), and it was determined that the court had jurisdiction over you and the offense as to which findings of guilty had been approved; the charge and the specification as to which findings of guilty had been approved each stated an offense; the sentence was within legal limits; the findings were supported by fact and in law. (Tab 1-1)

b. Between on or about 1 Jul 99 and on or about 15 Sep 99, at or near Kadena Air Base, Okinawa, Japan, you did, with intent to defraud, falsely pretend to AT&T that you were Airman First Class [REDACTED]; then knowing that the pretenses were false, and by means thereof, did wrongfully obtain, from AT&T, services, of a value of about \$2155.52, to wit: international telephone service. As a result, on or about 09 Apr 01, you plead and were found guilty by a Special Court-Martial. Your sentence, adjudged by officer members on 09 Apr 01, was Confinement for 90 days; Forfeiture of \$500.00 pay per month for 6 months; and, Reduction from the grade of Airman First Class (E-3) to the grade of Airman Basic (E-1). Pursuant to Article 64(a) of the UCMJ, your sentence was reviewed by Lt Col [REDACTED]; USAF, Deputy Staff Judge Advocate, Headquarters, Fifth Air Force (PACAF), and it was determined that the court had jurisdiction over you and the offense as to which findings of guilty had been approved; the charge and the specification as to which findings of guilty had been approved each stated an offense; the sentence was within legal limits; the findings were supported by fact and in law. (Tab 1-1)

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 United States Air Force and, if you are discharged, how your service will be characterized. If you are discharged, then you will be ineligible for reenlistment in the Air Force.

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 CAAF at the Area Defense Counsel at Building 1460 on 24 Jul 01 at 1500 hours. You may consult civilian counsel at your own expense.
5. You have the right to submit statements in response to this action. Any statements that you want the separation authority to consider must reach me by 27 JUL 01 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, then 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 Examination Section, 18th Medical Group, Kadena AB, Japan at 0815 on 25 Jul 01 for the examination.
8. The Privacy Act Statement of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use at the Area Defense Counsel's office.
9. Execute the attached acknowledgment and return it to me immediately.

✓ Commander, 18th Munitions Squadron

Attachments:

1. AF Form 1359; Special Court-Martial Order No.5, 02 May 01
2. Statement of Understanding Regarding Recoupment of Education Assistance, Special Pay, or Bonuses
3. Airman's Receipt of Notification Memorandum