

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)  [REDACTED]	GRADE <b>CAPT</b>	AFSN/SSAN  [REDACTED]
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<b>TYPE UOTH</b>	<b>X</b>	<b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
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<b>COUNSEL</b>	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	<b>X</b>	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES <b>A92.21</b> <b>A92.19</b> <b>A02.19</b> <b>A02.25</b> <b>A93.21</b>	INDEX NUMBER <b>A60.00</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 5px;"><b>1</b></td> <td style="padding: 5px;">ORDER APPOINTING [REDACTED]</td> </tr> <tr> <td style="padding: 5px;"><b>2</b></td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 5px;"><b>3</b></td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 5px;"><b>4</b></td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td style="padding: 5px;"><b>5</b></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE</td> </tr> </tbody> </table>	EXHIBITS SUBMITTED TO THE BOARD		<b>1</b>	ORDER APPOINTING [REDACTED]	<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE	<b>3</b>	LETTER OF NOTIFICATION	<b>4</b>	BRIEF OF PERSONNEL FILE	<b>5</b>	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 <b>11 May 2006</b>	CASE NUMBER <b>FD-2006-00009</b>	
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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 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  [REDACTED]	SIGNATURE OF BOARD PRESIDENT 
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**INDORSEMENT** **DATE: 5/15/2006**

<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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-2006-00009

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 11 May 2006.

The following additional exhibits were submitted at the hearing:

Exhibit # 5: Letters of Appreciation (12 pages)

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

**FINDINGS:** Upgrade of discharge and change of reason and authority for discharge 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:**

Issue 1. 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. In support of his contention, the applicant quoted a number of comments from Air Force officers and commanders which date to 1990 or earlier. These comments and the applicant's positive service record were available during his Board of Inquiry, which found the applicant's service was best characterized as under other than honorable conditions (UOTHC). They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Discharge Review Board concluded the discharge was appropriate for the reasons which were the basis for this case.

Issue 2. Applicant contends his discharge "was improper because it failed to acknowledge a legitimate but previously undiagnosed mental health condition, paraphilia scatologia (pg 61, Record of Proceedings), that contributed directly to the misconduct involved." As indicated by the applicant's citation to the transcript of his Board of Inquiry, that Board heard extensive testimony about the applicant's mental health. The applicant's own expert witness at the BOI testified that his condition did not rise to the level of a legal defense for his actions. At the DRB, the applicant testified that since his discharge, he has successfully completed treatment of his condition, and that the original diagnosis of his condition was never changed. The DRB found the applicant's mental health condition was properly considered at the time of his discharge.

Issue 3 describes the discharge proceedings as "improper and biased and pre-disposed to take UOTHC action, having been heavily influenced by" local press coverage, the salacious nature of the misconduct, the strained relationship between the base and the community, and the fact that civilian prosecutors pursued a sentence to jail notwithstanding two recommendations for probation. The DRB determined the applicant failed to meet his burden of proof regarding Issue 3. The Board of Inquiry transcript contains numerous newspaper articles about the applicant's arrest and conviction, as well as a letter from the Oneida County Probation Department noting that pre-sentence investigations recommended probation instead of jail. Finally, the applicant described the probation recommendations in his testimony before the DRB. However, no evidence supported the contention that the newspaper coverage or the prosecutors' decisions improperly impacted the discharge proceedings. Media coverage of the applicant's conduct, while not evidence of the

underlying offenses, may properly be considered as evidence of the impact of the applicant's actions. In conjunction with Issue 3, the applicant complains of four alleged procedural errors during his Board of Inquiry: (1) the Legal Advisor's denial of his request to produce the applicant's former commander as a live character witness; (2) the Legal Advisor's interruption of the applicant's unsworn statement with the statement "see if we can wrap this up in about ten minutes;" (3) the Legal Advisor's denial of a surrebuttal during closing arguments; and (4) the fact the BOI members deliberated for only 75 minutes. The DRB was troubled by the Legal Advisor's interruption of the applicant's unsworn statement. However, the DRB noted the applicant's unsworn statement was quite detailed and that the Legal Advisor subsequently offered the applicant additional time. The remaining actions complained of by the applicant were within the discretion of the Legal Advisor and the BOI members, and do not provide grounds for upgrade or changing the basis of the discharge.

Issue 4 presents the positive recommendations of two probation officers and one correctional facility educational coordinator as additional mitigating considerations. The DRB was impressed with the applicant's response to his arrest, conviction and discharge, and these recommendations are consistent with that response. However, the police reports, media coverage and victim statements clearly show his crimes had a significant impact upon the victims and the community. Issue 4 overlaps the contentions of Issue 1 and Issue 5, which address the applicant's behavior prior to and after his discharge. The applicant's discharge and its basis appropriately characterize the applicant's service.

Issue 5 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and runs a successful business. 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.

**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 CAPT) (HGH CAPT)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAF Griffis AFB, NY on 4 Jan 91 UP AFR 36-2, Chapter 3, para 3-7d (Misconduct - Serious or Recurring Misconduct Punishable by Military or Civilian Authorities). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 14 Sep 61. Enlmt Age: 21 8/12. Disch Age: 29 3/12. Educ: HS DIPL. AFQT: N/A. A-N/A, E-N/A, G-N/A, M-N/A. PAFSC: K1525C - Navigator-Bombardier. DAS: 4 Jun 85.

b. Prior Sv: (1) AFRes 15 May 83 - 22 Oct 83 (5 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Appt to 2Lt and Ordered to EAD 23 Oct 83. Svd: 07 Yrs 02 Mo 13 Das, all AMS.

b. Grade Status: Capt - 4 Aug 87  
1Lt - 4 Aug 85

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 27 Apr 85 - 12 Dec 85 Griffis AFB 01 (Semiannual)  
13 Dec 85 - 12 Jun 86 Griffis AFB 01 (Semiannual)  
15 Nov 86 - 14 Nov 87 Griffis AFB 01 (Annual)  
15 Nov 87 - 31 Jul 88 Griffis AFB 01 (CRO)  
01 Aug 88 - 31 Jul 89 Griffis AFB MS (Annual)  
01 Aug 89 - 01 Feb 90 Griffis AFB MS (CRO) REF

h. Awards & Decs: AFOUA, CRM W/1 DEV, AFLSAR, AFTR.

i. Stmt of Sv: TMS: (07) Yrs (07) Mos (21) Das  
TAMS: (07) Yrs (02) Mos (13) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Dec 06.

(Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Officer Performance Reports.
3. Special Flying Program Recommendation.
4. Two Certificates of Recognition.
5. News Article.
6. Two Letters of Congratulations.
7. Certificate of Recognition.
8. Fifteen Letters of Support.
9. Published Magazine Articles.
10. Book, "Conquering Adversity."
11. Audio CD, "Conquering Adversity."

21FEB06/ia

December 30, 2005



AF Review Board Agency  
SAF/MRBR  
550-C Street West, Suite 40  
Randolph AFB, TX 78150-4742

RE: Request for Upgrade

Review Board Members:

Nearly 15 years after my UOTHC discharge, I respectfully make application to have my discharge upgraded to honorable. I do so for the following reasons:

Issue 1: The UOTHC discharge was inequitable given my sterling military record up to the time of discharge. Specifically, my military record reflected:

- a. Graduating top of my class at navigator training (Mather AFB, CA; class 84-14) and selection for the Air Training Command's Commander's Trophy as the "most outstanding officer" of my class.
- b. Distinguished Graduate honors from B-52 navigator training (Castle AFB, CA)
- c. "Your record of accomplishment is impressive. I appreciate your demonstration of pride and professionalism long associated with members of the 'Mighty Eighth.'" Comments from a letter by Major General [redacted]; Vice Commander, 8<sup>th</sup> Air Force (29 Nov 1988) on my nomination by HQ SAC as one of just three 8<sup>th</sup> Air Force finalists for the prestigious and intensely competitive Institute of Navigation's Superior Achievement Award.
- d. "Top Bomber" award in the 416<sup>th</sup> Airmanship Competition. "Your final score, achieving 97 percent of the possible points, is a testimonial to your high standards, hard work and keen competitive edge ... All of your activity was excellent but the combination of your 113 foot bomb and reliable Optional Defense Run were key factors in your large margin of victory," [redacted]; Colonel, USAF, Commander 416 BMW (10 Aug 1987)
- e. Nominated for a test navigator position at Edwards AFB, California - one of the most prestigious and competitive positions for a navigator. "Captain; [redacted] has been a standout since entering the Air Force in 1983 ... his selection as one of three Eighth Air Force finalists identified him as one of the very best our command has to offer. I can't say enough good things about this exceptional aviator," [redacted]; Colonel, USAF, Commander, 416 BMW (25 Nov 1988)

- f. Command wide recognition and by-name requested for my tactical expertise and exceptional combat crew training design and execution in 416<sup>th</sup> BMW's Weapon Systems Trainer. Cited by the commander as key to earning the only "Excellent" rating of any B-52 Tactics Division in the 1989 Operational Readiness Inspection cycle.
- g. Fast-track upgrade to radar navigator (15 months), fast-track upgrade to instructor radar navigator (15 months), top squadron crew honors (E-35), the only "Outstanding Performance" rating in the Inspector General's evaluation and many more aviation and leadership distinctions in over seven years of aviation service.
- h. A career of Officer Evaluation Reports with the highest marks and the strongest endorsements. Copies attached.
- i. Documentation from senior officers and aviators who knew me personally and my work professionally and volunteered to provide written support of my exceptional service, personal character and professional contributions. Their recommendations for an honorable discharge were edited out of the documents provided to the board members but the language that remained still reflects their strong, positive opinions of my service record:
- i. "One of my top officers, someone on whom I could depend for a top performance when the chips were down ... He was a credit to the 416<sup>th</sup> BMW." [redacted]; Lt. Colonel, USAF (16 Aug 1990)
  - ii. "I observed his tenacious drive for training excellence, instructional prowess, and managerial competence. The end result of his labors was, and is, a highly skilled bomber crew force ... The bottom line is, the entire bomb wing benefited from training which exceeded anything I've been exposed to in my thirteen years in SAC ... if asked would I go into combat with him, my answer would be a resounding yes!" [redacted] Jr., Lt. Colonel, USAF, Deputy Base Commander (15 Aug 1990)
  - iii. "His military service, in my opinion, was exemplary." [redacted] Lt. Colonel, USAF (5 Sep 1990)
  - iv. "Captain [redacted] tactical knowledge and ability to develop WST (B-52 trainer) computer scenarios and programs to train B-52 crew members in tactics were known command wide ... He was a critical link in developing WST programs to test SAC's Rapid Response Bombing concept. Captain [redacted] was a crucial member of our initial tactics cadre, using his extensive knowledge and ability to make our crews the best in SAC." [redacted] Jr., Lt. Colonel, USAF, Asst. Deputy Commander for Operations, 416 BMW. (6 Aug 1990)
  - v. "Not only was Captain [redacted] and accomplished aviator, but he could have passed for a model officer. Loyal, committed, aggressive, and impeccable bearing, he was just a pleasure to be around. There was never any doubt he wanted to make the Air Force his career. In fact, after

talking with him following this unfortunate situation, I think his intense desire to fly and be a career officer may have prevented him from seeking professional help for his psychological disorder. I would like the Board of Inquiry to strongly consider his superior job performance while on active duty in their final discharge decision." [redacted] Lt. Colonel, USAF, Commander, 668<sup>th</sup> Bombardment Squadron (29 Aug 1990)

- vi. "This man is an exceptional Air Force officer who has performed beyond any expectations. He has no peers." [redacted] Captain, USAF, B-52 Instructor Pilot, Tactics (Aug 1990)
- vii. "I have never met a more effective officer. He is a bulwark of integrity and professionalism. His loyalty and expertise are beyond reproach. I will proudly serve with Captain [redacted] in any capacity, under any circumstances. He continues to represent the qualities I respect most in a peer. I strongly urge that he be returned to flight status and unrestricted service in our Air Force." [redacted] Captain, USAF, Assistant Chief Tactics Branch (6 Aug 1990)
- viii. "I have not worked with many officers who have been as dedicated and effective as Captain [redacted]. His loyalty and integrity to the Air Force are above reproach. His service record shows this to be true. I strongly urge that he be reinstated to his former status and unrestricted service in the Air Force." [redacted] Captain, USAF, EWO Operations Study Officer
- ix. "During the time I supervised Captain [redacted], there was not a better radar navigator in the 416 BMW. His performance was always flawless and the senior staff recognized his outstanding ability. [redacted] performance in all areas of his work has always been honorable." [redacted] Captain, USAF, Stan/Eval Instructor Aircraft Commander, Crew S-01

Issue 2: The UOTHC discharge was improper because it failed to acknowledge a legitimate but previously undiagnosed mental health condition, paraphilia scatologia (pg 61, Record of Proceedings), that contributed directly to the misconduct involved.

- a. This health condition was being addressed through private, professional intervention at the time of and subsequent to discharge (forty therapy sessions completed with Dr. [redacted] at the time the board convened; pg 61, Record of Proceedings). Dr. [redacted] testified that, "the prognosis here is excellent," (pg 65, Record of Proceedings) when referring to the likelihood that treatment would be successful in recovering from this condition and concludes, "I see no reason he couldn't continue," when asked if the Respondent could be retained in military service. Dr. [redacted] was admitted as an expert witness in psychology and child psychology and presented powerful testimony to the medical condition underlying the Respondent's actions.



- b. Had the board advocated continued medical intervention and monitoring at the time, it is reasonable to assume that my military service could have continued in a productive capacity. This contention of my continued potential value is supported by an exceptional post-service history of nearly 15 years (see Item #5).
- c. Despite my discharge, I continued professional care with Dr. [redacted] for nearly two years on my own accord to ensure a complete recovery – evidence of which is supported by my stellar post-service record (see Item #5).
- d. The health condition I battled is rooted in childhood traumas and is unmoved by high position or education, as evidenced by other professionals whose misconduct approximated my own and became public (for example, an appellate court judge in New York and a president of American University in Washington, DC, [redacted] in 1990). It is a medical condition, diagnosable, treatable and real.

Issue 3: The discharge proceedings were improper and biased and pre-disposed to take UOTHC action, having been heavily influenced by negative, local press coverage at the time, the non-violent but salacious nature of the actions, deference to civilian prosecutors that blatantly disregarded two pre-sentencing investigations that recommended probation only, and an overall atmosphere of strained relationship between that military community and local civilian community over the base's assumed nuclear arsenal. This made it impossible for me to have my case heard objectively on the totality of its merits and considerations of its complexities. The record reflects this bias in numerous instances:

- a. The ruling by Legal Advisor, Lt. Colonel [redacted] to deny the defense request for the in-person appearance of Lt. Colonel [redacted] unjustly handicapped the Respondent's ability to counter the two live witnesses presented by the government (pg 34, Record of Proceedings). Specifically, since the entirety of the government's witness (Mrs. [redacted]) testimony was already admitted in evidence into the record via her written statement, the purpose of her live testimony was only to produce a visual image and sound bite with strong negative impressions of the Respondent and the Respondent's character for the board members. The government has a right to present a witness for this impact but a similar protection is afforded the Respondent in order to counter that impact with its own live witness appearance to offer the board a contrary image as it deliberated. The importance of Lt. Colonel [redacted] appearance was critical to the Respondent's case specifically because he had been and was the Respondent's commander at the time of and immediately after the misconduct aired. His impressions of the Respondent's character, professionalism and conduct – as expressed eye-to-eye with the convening board – would have offered a fair and equitable balance to the government's live witness. The Legal Advisor's ruling to deny Lt. Colonel [redacted] appearance – or the Legal Advisor's subsequent overruling of the Respondent's Council's objection to Mrs. [redacted] appearance – created an inequitable advantage for the government. Either both parties should have been instructed to rely on the written evidence already in the record or both parties should have been

given a live witness appearance of the person best able to support their case.

- b. Evidence of this pre-disposition appears most strikingly in the Legal Advisor's interruption of my (Respondent's) statement (pg 86, Record of Proceedings). His interruption of, "Captain; [redacted] See if we can wrap this up in about ten minutes." destroyed my train of thought, communicated to me that what I had to say was not important, signaled to the other board members a disinterest in my defense, and totally disrupted the most important statement of my professional life. I was left in disarray by the interruption and had to try to convey my strong desire to seek treatment but remain an officer in an ad hoc manner now governed by the clock – a point that was clearly evident shortly afterward when I closed with "I'm sorry, that's probably ten minutes." (pg 87, Record of Proceedings).
  - i. The Legal Advisor's subsequent statement that I could continue if I had more to say belied the fact that I was already devastated by the interruption and ten minute constraint. In fact, the comment seemed disingenuous to me given the apparent urgency to close the hearing and render a verdict. Still, I tried to offer a few minutes of the testimony I had originally wanted to provide in one coherent presentation but it was obvious by then the damage to my credibility had been inflicted by the Legal Advisor's interruption. My testimony was not excessively long or repetitive and I should have been permitted to offer my statement uninterrupted.
  - ii. When an officer's career is on the line, particularly one with a stellar military record and serious, complex mitigating issues, the board should be able to sustain interest and open-minded consideration of the defense's position for what had not even exceeded one hour. My conclusion was that this board already had a verdict and that impaired my defense.
- c. The Legal Advisor's denial of a final rebuttal by Respondent's council to the misleading and prejudicial statements by the Recorder left the board with inaccurate information. The failure of Respondent's council to object to Recorder's closing arguments was a reflection of their reasonable belief that they would be granted a brief response. There was no reasonable justification for the Legal Advisor to deny the request for a brief rebuttal – again, a fair and impartial proceeding would welcome that input.
- d. The board deliberated for no more than one hour, reconvening 75 minutes after closing its doors for deliberation. It is unlikely that all members could have read the more than one hundred pages of written material submitted into evidence, reviewed the testimony given, and discussed the facts and circumstances of the case in that amount of time. The brevity of deliberation supports a claim that the Respondent's right to a "fair and impartial hearing" was not fully realized.

**Issue 4: Additional mitigating considerations at the time of these proceedings:**

- a. "I hope to put Mr. [redacted] situation into perspective ... several things should be noted. Pre-sentence Investigations in both Oneida and Madison Counties recommended probation only ... Subject is well established in the community, being married and having a responsible career. His crime, although annoying, is not violent. Mr. [redacted] has no prior criminal or legal history. Mr. [redacted] has an excellent attitude and has in no way tried to justify his behavior, but accepts the negatives and has made efforts to correct his life. Subject has sought and continues counseling, and has made excellent progress. The prosecutors in this case, however, felt contrary to the above and fought hard for a jail sentence. Fortunately, however, a Conditional Release Program is in existence in both Oneida and Madison Counties. Thus, offering people of Mr. [redacted] caliber an opportunity for community based supervision." Excerpt from letter dated 5 Sep 1990 by [redacted], Probation Officer, Oneida County.
- b. "Mr. [redacted] has a sickness that is now being treated and a sentence of incarceration will serve no useful purpose. Mr. [redacted] needs to continue treatment for his illness ... a sentence of incarceration is not appropriate. Mr. [redacted] and society would benefit more if he were treated therapeutically rather than punitively." Excerpt from probation report filed by [redacted], Senior Probation Officer, Oneida County.
- c. "As a trustee, Captain [redacted] tangibly improved the quality of our educational program ... Captain [redacted] volunteered as a reading tutor for an adult low level reader. His initiative and enthusiasm in this capacity left our staff impressed. His presence here made a difference and that is worthy of your attention. What he did was wrong; but what he has demonstrated to me suggests a responsible man who has overcome obstacles most of us cannot imagine. Were it up to me, I would not waste his potential." [redacted] Education Coordinator, Oneida County Correctional Facility.

**Issue 5:** My post-service history for nearly fifteen years validates a complete recovery from the health condition I suffered from at the time of discharge and rises to such a significant level of achievement and charity, that while not itself justification for upgrade, provides at least evidence that my defense and contention at the time of discharge – that I be allowed to continue treatment for my health condition while actively serving in a productive military capacity – was substantive, reasonable and with merit. Specifically:

- a. Summary of post-service achievement:
- i. After his mother was killed eight years ago, I devoted my life to raising my son, now age 17, into a young man she would be proud

of. Today, [redacted] is a high honor roll high school junior, two sport varsity athlete, first chair jazz saxophone and community/church volunteer whose future is bright and limitless.

- ii. I established and endowed (\$10,000 initial contribution) a student scholarship at Upstate Medical University in my wife's name. Now, each year, a cytotechnology student receives an education grant from the Cynthia Anne Novak Memorial Scholarship Fund which Ryan and I usually present.
- iii. I completed a master's degree in business management (3.83 GPA).
- iv. Professional employment and advancement to the highest levels of human resources management at an upstate New York manufacturer and Cornell University. I am a recognized and respected human resources authority.
- v. Author of multiple magazine articles on military history and heroism in publications that include *Retired Officer Magazine*, *VFW Magazine*, *Military Life*, and *Smithsonian's Air & Space*; reflecting the high regard, pride and positive connection I feel for military service (both my own and others). A list of magazine articles and publication dates is provided.
- vi. In 2001, I left Cornell University to start my own business and be more available for my son after his mother was killed by a driver high on drugs. The Summit Team ([www.Summit-team.com](http://www.Summit-team.com)) focuses on leadership development and executive coaching. The business is now nearly five years old, thriving and a pillar in my small community where I support many local charities. For example, last fall I provided pre-season leadership training to the varsity boy's soccer team who went on to become NY State champions and honored me for my work with them.
- vii. Author of the book, Conquering Adversity: Six Strategies to Move You and Your Team Through Tough Times (Cornerstone Leadership Institute, Dallas, TX; 2004), a copy of which is enclosed. With more than 50,000 copies in print and with hundreds of corporations, government offices, schools and individuals as clients, this book has been an inspiration to people everywhere. Based on the real-world insights of moving forward with purpose and passion in the wake of my pregnant wife's death in 1998 (a man high on drugs ran a stop sign and killed her and our unborn baby), this book reflects my belief that there is a hero inside each of us that can lift us above life's most serious challenges.

After hurricane Katrina, I donated 300 of my books to Biloxi, MS – one for every police officer and firefighter in Biloxi – to help them recover emotionally.

My book has been donated to the [redacted] family ([redacted] the mother of [redacted] who was lost in Aruba), [redacted] the head coach of the Colts, president of MADD in Pennsylvania and many others who have acknowledged and benefited from its message. I donated 50 books to attendees of a Victim's of Violence service which I keynoted (gratis) and earned a standing ovation for. My work has touched thousands of lives.

I invite the review board to read just pages 9-14 of my book to glimpse the depth of my post-service journey.

- viii. I am now a professional motivational speaker who has brought the Conquering Adversity message to thousands of people both nationally and internationally, including American military families and students stationed at SHAPE, Belgium, students and staff at high schools, at-risk youth and counselors and dozens of business professionals and non-profit leaders.

I frequently provide gratis presentations to church groups, youth groups and non-profit organizations that seek out my positive, empowering message. For example, last August, I presented gratis to over 300 community action leaders at a conference honoring people who work with the disadvantaged.

- ix. A post-service history that is completely free of any legal missteps or recidivism. I have been a consistent financial supporter of law enforcement efforts and organizations.

I am acutely aware that requests for upgrade are overwhelmingly denied and that consideration for such action must be supported by the evidence. I believe I have met my burden of proof for the reasons outlined above – arguments that provide a foundation for the board to find that cause exists to reconsider the final findings. I humbly request that the board discuss the merits of my case in their totality and find as I do, that the best interests of the Air Force are served by rendering an honorable discharge to reflect the documented excellence given to our country in performance of my Cold War duties, my accountability in accepting responsibility and remorse for a complex problem rooted in childhood traumas that has been professionally and fully treated, and supported by recognition of nearly 15 years of truly exemplary post-service history.

Sincerely,

[Redacted signature area]



DEPARTMENT OF THE AIR FORCE  
 HEADQUARTERS 416TH BOMBARDMENT WING (M) (SAC)  
 GRIFFISS AIR FORCE BASE, NEW YORK 13441-5000



25 APR 1990

REPLY TO  
ATTN OF: CC

SUBJECT: Notification of Action Under AFR 36-2

TO: Captain [REDACTED], 416 BMW

1. I am initiating action against you under AFR 36-2, chapter 3, paragraph 3-7d.
2. I am taking this action because of your serious and recurring misconduct punishable by military or civilian authorities, as evidenced by the following:

a. You did, in and around Rome, New York, on divers occasions during the period from on or about 1 January 1986 to on or about 23 January 1990, wrongfully and dishonorably impersonate telephone company employees and police officials of the Governments of the State of New York and the Village of Clinton, New York, by orally identifying yourself as such and thereafter asserting their authority during telephone conversations with women living in and around Rome, New York, in order to elicit personal information from the women telephoned.

b. You did, in and around Rome, New York, on divers occasions during the period from on or about 1 January 1986 to on or about 23 January 1990, wrongfully and dishonorably harass women living in and around Rome, New York, by making unsolicited and unwanted telephone calls to them as a means of communicating graphic, unsettling and indecent information describing the kidnapping, sexual torturing and/or raping of women.

c. You did, in and around Rome, New York, on divers occasions from on or about 1 January 1986 to on or about 23 January 1990, wrongfully and dishonorably communicate by telephone to women living in and around Rome, New York, threats that you would torture, rape, and/or kill them or their family members.

Attached are copies of documentary evidence to support this action. The worst possible discharge that may be approved for the reasons cited is an under other than honorable conditions discharge.

3. Familiarize yourself with AFR 36-2, particularly paragraph 4-10, which outlines the rights afforded you in this action, and paragraph 4-13, which explains the action the major commander may take on receipt of your reply to this correspondence. Contact Captain [REDACTED], Area Defense Counsel,

*Peace . . . . is our Profession*

NOTE: NOT OFFERED

Depot 1, 2nd floor, Griffiss AFB, NY 13441-5000, 330-3071, to discuss the procedures involved and your rights and options. If you decline legal counsel, contact Captain: \_\_\_\_\_, Chief, CBPO, 416 MSSQ/MSP, Griffiss AFB, NY 13441-5000, 330-3662, for counseling regarding your rights and options.

4. Within 15 calendar days after you receive this correspondence, you may:

a. If eligible to retire, apply for voluntary retirement to be effective on the first day of the month immediately following notification of approval by the Secretary of the Air Force. If less than 15 calendar days between the date you are notified and the first day of the month following notification, the effective date of your retirement will be the first day of the second month after notification. If you have 20 or more years of active military service but you do not have the required minimum 10 years of active commissioned service to qualify for retirement in officer status, you may apply for separation under the provisions of AFR 36-12, table 2-7, rule 1, to enlist for the purpose of retirement in the enlisted grade in lieu of further action under AFR 36-2.

b. If ineligible to retire, tender your resignation according to AFR 36-12, table 2-7, rule 1, to be effective within 10 calendar days following notification of acceptance by the Secretary of the Air Force. By tendering your resignation you will be disqualified for separation or severance pay if you are otherwise qualified to receive such pay. If you tender your resignation, it will be with the understanding that, if accepted, you will receive a general (under honorable conditions) discharge, unless the Secretary of the Air Force determines that you will be honorably discharged.

c. Submit any written statement or other documentary evidence that you feel should be considered in evaluating your case. If you are unable to prepare your statements or documentary evidence within the time specified above, you may request more time as outlined in AFR 36-2, paragraph 4-12.

5. Within 15 calendar days after you receive this letter, send it without attachments, by indorsement directly to HQ SAC/DPAAB, Offutt AFB, NE 68113-5001, with information copies to 416 MSSQ/MSPQS, 416 BMW/JA, 416 BMW/CC, Griffiss AFB, NY 134441-5000, and HQ 8 AF/DPA, Barksdale AFB, LA 71110. Include in your indorsement:

- a. A statement that you (have) (have not):
- (1) Applied for voluntary retirement, or
  - (2) Tendered your resignation.

If you apply for voluntary retirement or tender your resignation, attach a copy of your application to this indorsement.

b. A statement that you (do) (do not) desire to comment. If you desire to comment, you may attach any statements or documentary evidence you want to submit. If you have requested more time as outlined in paragraph 4c of this letter, attach a copy of your request.

c. A statement that you have been counseled by Captain [redacted] Area Defense Counsel. If you decline legal counsel, so state and indicate that you have been counseled by Captain [redacted], Chief, CBPO, and that you fully understand your rights and options in this action.

d. You may request to be placed on excess leave provided processing of this separation action no longer requires your presence. AFR 35-9 provides guidance on excess leave.

6. Within 24 hours after you receive this correspondence, sign and date two copies of the letter of acknowledgment. Send one copy to 416 MSSQ/MSPQS, Griffiss AFB, NY 13441-5000 and one copy to HQ SAC/DPAAB, Offutt AFB, NE 68113-5001.

7. Action required by DOD 5200.2-R/AFR 205-32, chapter 8, is complete.

[redacted signature box]

Commander

6 Atchs

- 1. Accused's Statement, 22 Jan 90
- 2. Victims' Statements
- 3. N.Y. State Police Investigation Report, New Hartford Case No. 10288
- 4. AFR 36-2 *w/p*
- 5. AFR 36-12 *w/p*
- 6. Letter of Acknowledgment (2cys) *w/o*