

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	X	PERSONAL APPEARANCE	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>	X +				
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ISSUES A94.06 A92.07 A92.00	INDEX NUMBER A67.05	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 09 May 2006	CASE NUMBER FD-2006-00029
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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.

+ Change of RE Code

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 <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: 5/22/2006**

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-2006-00029

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment (RE) code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 09 May 2006. The following witness also testified on the applicant's behalf: Mr. [REDACTED] (applicant's father).

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

FINDINGS: Upgrade of discharge and change of reenlistment code (RE) are approved. Change of reason and authority for discharge are denied.

The DRB finds that neither the evidence of record nor that provided by applicant substantiates an inequity or impropriety that would justify a change of discharge. However, based upon the record and the additional evidence provided by applicant, the Board finds the applicant's discharge was too harsh considering the special circumstances surrounding his misconduct and the significant positive aspects of his military service.

ISSUE: The applicant appealed for an upgrade of his discharge for the purpose of enlisting in the United States Marine Corp with the additional goals of joining his county fire department and to pursue a college education. The records indicated the applicant received an Article 15, a Vacation Action, and one Letter of Reprimand for a pattern of misconduct. Specifically, the applicant's LOR, received on 9 July 2004, was for his involvement in an altercation and consuming alcoholic beverages while underage. The applicant issued a written statement that "[he] decided to get together" with two of his friends "to say farewell" prior to leaving on one of his several deployments to Iraq. During the collegial visit in the applicant's quarters, the two friends got into a scuffle, which spilled over into the dormitory parking lot during the applicant's attempts to break up the disagreement. Upon arrival of Security Forces personnel the applicant reported that his friends then escaped the scene leaving him behind to explain the circumstances, including an admission of his underage alcohol consumption. The applicant's Article 15 was issued months later on 16 May 2005 after discovery that he had wrongfully possessed an altered military identification card, on or about 8 February 2004, for which he had reportedly conspired with another airman to commit the wrongful alteration of the identification card (ID); then further, on or about 1 November 2004, assisting the aforementioned airman in altering his spouse's ID, all for the reported purpose of gaining access to establishments wherein alcoholic beverages were made available. The applicant testified that he neither solicited nor conspired to alter the military identification cards and that the airman, reportedly known to others for her skills at altering ID cards, offered to "fix" the applicant's military ID card in order that he may participate in social activities along side his elder friends. As a result the applicant received 30 days of correctional custody and a suspended reduction to Airman First Class. The applicant subsequently received a Vacation Action of the suspended reduction in grade on 19 July 2005 for his willful failure to refrain from wearing an earring while on duty and in military uniform, following which the discharge action was pursued. The applicant emphatically denied the allegation, citing an immediate supervisor reportedly uttered that he never saw the applicant wearing an earring during the specified period of time. The applicant's father provided additional testimony regarding the applicant's strength of character and difficult childhood prior to entering military service. The applicant also presented laudatory letters from his current employer, FedEx, citing the applicant's "highly desirable qualities" and others citing his "dependability" and commitment to "do his best in everything." The Board noted the applicant had reportedly deployed to Iraq over hostile airspace on several occasions as a boom operator, some for which he reportedly volunteered to allow another airmen to remain with their families. The Board also noted that applicant had achieved an overall "5" enlisted

performance report, covering the same period of time in which his most significant offenses occurred. The Board also acknowledged the applicant had been appropriately referred to and successfully completed an Alcohol and Drug Abuse Treatment Program. The DRB did not condone either the applicant's underage alcohol consumption or his acceptance and usage of an altered military identification card. Thus, the DRB did not recommend a change in reason and authority for discharge. However, in consideration of the totality of the applicant's service, to include the special circumstances surrounding his misconduct, the Board believed that the applicant's military service is best characterized as Honorable.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and that he should be given the opportunity to re-enter active military service under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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

(Former AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Fairchild AFB, WA on 18 Aug 05 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 30 Mar 84. Enlmt Age: 18 1/12. Disch Age: 21 4/12. Educ: HS DIPL. AFQT: N/A. A-63, E-69, G-55, M-67. PAFSC: 1A051 - In-Flight Refueling Journeyman. DAS: 13 Oct 03.

b. Prior Sv: (1) AFRes 16 May 02 - 9 Sep 02 (3 months 24 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 10 Sep 02 for 6 yrs. Svd: 02 Yrs 11 Mo 09 Das, all AMS.

b. Grade Status: Amn - 16 May 05 (Vacation of Article 15, 19 Jul 05)
A1C - 16 May 05
SrA - 25 Feb 05
A1C - 25 Oct 02

c. Time Lost: None.

d. Art 15's: (1) 19 Jul 05, Vacation, Fairchild AFB, WA - Article 92. You, who knew of your duties, on or about 23 Jun 05, were derelict in the performance of those duties in that you willfully failed to refrain from wearing an earring while on duty and in military uniform, as it was your duty to do. Reduction to Airman. (No appeal) (No mitigation)

(2) 16 May 05, Fairchild AFB, WA - Article 107. You did, on or about 9 Sep 04, with intent to deceive, make to MSgt [REDACTED], an official statement, to wit: you lost your military identification card while moving off base, which statement was totally false, and was then known by you to be so false. Article 134. You, did, at or near Spokane, Washington, on or about 8 Feb 04, wrongfully possess with intent to deceive a certain instrument purporting to be a military identification card, then well knowing the same to be so false. Article 81. You, did, on or about 1 Feb 04, conspire with A1C [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: wrongful alteration of a military identification card, and in

order to effect the object of conspiracy, provided A1C [redacted] with your military identification card so that it could be altered. You, did, on or about 1 Nov 04, conspire with A1C [redacted] to commit an offense under the Uniform Code of Military Justice, to wit: wrongful alteration of a military identification card, and in order to effect the object of conspiracy, did assist A1C [redacted] in photocopying the back of [redacted] dependent identification card, taping a new date of birth over the old date of birth and then relaminating the identification card. Article 92. You, who knew of your duties in the Continental United States, on divers occasions from on or about 1 Feb 04 to on or about 29 Jan 05, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of twenty-one, as it was your duty to do. Reduction to Airman (reduction below A1C suspended). Thirty days correctional custody, and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR, 9 JUL 04 - Involvement in an altercation and consuming alcoholic beverages underage.
- f. CM: None.
- g. Record of SV: 10 Sep 02 - 15 Apr 04 Fairchild AFB 5 (HAF Dir)
- h. Awards & Decs: AFTR, NDSM, GWOTSM, GWOTEM, SAEMR, AFESR W/GB, MUA.
- i. Stmt of Sv: TMS: (03) Yrs (03) Mos (03) Das
TAMS: (02) Yrs (11) Mos (09) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 23 Jan 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Enlisted Performance Report.
3. DD Form 214.
4. Five Character References.

2MAR06/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

Letters of References

b. DOCUMENT 2:

Enlisted Performance Report

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I ISSUE - DRINKING UNDER AGE IN BARRACKS 30 JUNE 04
I received orders for IRAB for my second tour, before leaving a couple of friends and I decided to get together to say farewell for a couple of months, we were drinking and altercation occurred between my two friends, when the police arrived the other guys ran and I stayed around. I was questioned by the police, they asked if I had been drinking and I answered yes, I was arrested because I was under age. After I was processed at the brig, my 1st sergeant came and got me and I received a letter of reprimand (LOR) a week later. I went to IRAB for my second tour for 90 days.

II ISSUE - 1 year later - Altered ID cards
The purpose for the alteration of the ID cards so that my wife and I could enter clubs otherwise we could not enter because we were under age. I lost my ID card and it was found and nothing happened. My wife attempted to enter a bar and her ID card was confiscated and sent back to the base. The security forces noticed it had been altered and detained me for questioning, I was read my rights and I told them what had happened. I was released to my commander and he gave me my punishment which was a reduction in rank suspension of rank Article 15 and 30 days of correctional custody. Continued on attached sheet

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

2006 01 23

b. SIGNATURE

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200	Naval Council of Personnel Boards Bldg. 36 - Washington Navy Yard 901 M Street, S.E. Washington, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (WPM-60) U.S. Coast Guard Headquarters Washington, DC 20593-0001

After the 30 days of Correctional Custody I reported to work and was falsely accused of wearing an earring while in uniform. My supervisor questioned me and he noticed that I did not have an earring in my ear.

The incident occurred on June 23, but I did not hear anything about it from my commander until approximately 1 month later, he then informed me that he was discharging me.

I entered the Air Force at the age of 17 years old and was very proud to be an Airman. I went to Iraq for the first time when I was 18 years old, until the incident of 30 June 04 my performance had been rated as excellent. Please refer to the attached AF Form 910 (Enlisted Performance Report)

I enjoyed my stay in the Air Force and was honored to serve my country. I received numerous awards while in the Air Force. I was very disappointed when I was discharged.

I am seeking employment with the Fire Department in my country and also I am trying to enter college. Without an honorable discharge, I do not qualify for the GI bill. I am presently working two jobs but I do not make enough money to pay my college tuition. I would hope that the Board grant me an honorable discharge.

FD2006-00029



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 92D AIR REFUELING WING (AMC)
FAIRCHILD AIR FORCE BASE WASHINGTON

05 AUG 2005

MEMORANDUM FOR AMN: [redacted]

FROM: 93 ARS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct: Conduct Prejudicial to Good Order and Discipline. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge.

2. My reasons for this action are as follows:

a. On 30 June 2004, you were in a physical altercation with two other military members in the dormitory parking lot. As a result of this altercation, you were identified by 92d Security Forces to be drinking alcoholic beverages while under the age of twenty-one (21). For this action you received a Letter of Reprimand dated 9 July 2004.

b. On or about 1 February 2004, you conspired with Airman First Class: [redacted] to wrongfully alter your Military Identification Card. For this action you received an Article 15 dated 16 May 2005. Punishment included reduction to the rank of Airman with reduction below Airman First Class suspended; thirty (30) days Correctional Custody; and a reprimand.

c. On or about 1 February 2004 to 29 January 2005, on diverse occasions you were derelict in the performance of your duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of twenty-one (21). The punishment you received is included in paragraph 2b above.

d. On or about 8 February 2004, you did wrongfully possess with intent to deceive a false/altered Military Identification Card. The punishment you received is included in paragraph 2b above.

e. On or about 9 September 2004, with the intent to deceive, you did make to Master Sergeant: [redacted] a false official statement. The punishment you received is included in paragraph 2b above.

f. On or about 1 November 2004, you conspired with Airman First Class: [redacted] to wrongfully alter the Dependent Identification Card belonging to: [redacted]. The punishment you received is included in paragraph 2b above.

g. On 23 June 2005, you were derelict in the performance of your duties in that you willfully failed to refrain from wearing an earring while on duty and in military uniform. For this action, a suspended punishment was vacated, resulting in reduction to the grade of Airman.

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, you will be ineligible for reenlistment in the Air Force, and any special pay, bonus pay, or education assistance funds are subject to recoupment. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. *N/A* I have made an appointment for you to consult _____ at _____, on _____, at _____ hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 0900/10 Aug 05 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to FSO on 09 Aug 05, at 0845 hours for the examination.

8. 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 the unit orderly room.

9. Execute the attached acknowledgment and return it to me immediately.

Commander

Attachments:

1. Letter of Reprimand dated 9 Jul 2004
2. Article 15 dated 16 May 2005
3. Vacation of Suspended Punishment dated 15 July 2005