

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 	GRADE AIC	AFSN/SSAN
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TYPE UOTH	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

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

ISSUES A01.00 A95.00	INDEX NUMBER A94.07	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 FILE	

HEARING DATE 19 Sep 2006	CASE NUMBER FD-2006-00034	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

Case heard in 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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INDORSEMENT		DATE: 9/25/2006
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

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00034

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 he served two years and six months of his four year enlistment. It has been seven years since his discharge and he deserves an upgrade. The records indicated the applicant's commander preferred a charge against him for larceny. The applicant submitted a request for discharge in lieu of court martial which was approved by his chain of command. 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. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on July 10, 1996) 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 UOTHC Disch fr USAF Barksdale AFB, LA on 22 Mar 99 UP AFI 36-3208, Chapter 4 (Discharge in Lieu of Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 3 May 78. Enlmt Age: 17 6/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-63, E-59, G-70, M-52. PAFSC: 2A632 - Aerospace Ground Equipment Apprentice. DAS: 25 Feb 97.

b. Prior Sv: (1) AFRes 8 Nov 95 - 25 Jun 96 (7 months 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 Jun 96 for 4 yrs. Svd: 02 Yrs 08 Mo 27 Das, all AMS.

b. Grade Status: A1C - 26 Oct 97
Amn - 26 Dec 96

c. Time Lost: None.

d. Art 15's: None.

e. Additional: (Examiner's Note: The following derogatory actions were listed on 2 MXCS/CC Letter, 8 Mar 99 and 2 Aug 98 EPR, but are missing from file)

LOR, 27 AUG 99 - Unknown.

LOC, 26 AUG 98 - Unknown.

LOR, 28 JUL 98 - Unknown.

f. CM: None.

g. Record of SV: 26 Jun 96 - 9 Mar 98 Barksdale AFB 5 (Initial)
10 Mar 98 - 2 Aug 98 Barksdale AFB 3 (CRO)REF

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (03) Yrs (04) Mos (15) Das
TAMS: (02) Yrs (08) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Jan 06.
(Change Discharge to Honorable)

Issue 1: I am requesting the upgrade so that I may be able to utilize my Montgomery GI Bill for college. I did serve 2 yrs, 6 months of my four year term, and I believe that after 7 yrs. after the fact, I deserve the upgrade. It would mean so much to me to have an honorable discharge.

ATCH

1. DD Form 214.
2. Six Training Certificates.
3. Certificate of Achievement.
4. Two Letters of Appreciation.

10MAR06/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 2D BOMB WING (ACC)
BARKSDALE AIR FORCE BASE, LOUISIANA

FD 2006-00034

MAR 09 1999

MEMORANDUM FOR 8 AF/CC

FROM: 2 BW/CC

SUBJECT: Discharge in Lieu of Court-Martial, Airman First Class: [redacted]
2 MXS

1. I am forwarding Airman First Class [redacted] request for discharge in lieu of court-martial to you, with my recommendation for approval. Upon review of the facts and circumstances of this case, I am convinced that the interests of justice are more appropriately served by approving this discharge in lieu of proceeding to trial. I recommend the discharge be characterized as under other than honorable conditions.

2. The unit commander in this case recommends approval, based on A1C [redacted] history of misconduct. I have given careful consideration to his position. On the eve of the trial, the victim of A1C [redacted] alleged larceny has changed his original statement. He now asserts that A1C [redacted] could have been mistaken as to his authority to use the victim's bank debit card. As a consequence, my staff judge advocate is convinced that this case has now become one of failure to pay a just debt when reasonably due. The facts make it clear that A1C [redacted] took advantage of his friendship with a fellow military member, taking money that he was not expressly authorized to take, and then failing to repay it for a period of approximately eight months. Airman [redacted] has repaid approximately \$500.00 worth of the debt and has signed a note to repay the remaining \$1,100.00. In light of these facts, my staff judge advocate recommends, and I concur, that acceptance of the Chapter 4 request would be an appropriate resolution for A1C [redacted] course of misconduct.

3. RECOMMENDATION: I recommend you approve A1C [redacted] request for discharge in lieu of court-martial with a service characterization of under other than honorable conditions.

[redacted signature box]

Commander



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 2D BOMB WING (ACC)
BARKSDALE AIR FORCE BASE, LOUISIANA

8 March 1999

MEMORANDUM FOR 2 BW/CC

FROM: 2 MXS/CC

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial - A1C [redacted]
 [redacted]

1. I recommend that the attached request for discharge be approved for the following reasons:

- a. On 1 Feb 99, I preferred a charge against A1C [redacted] for larceny in violation of Article 121 of the UCMJ. Over the past several months it was brought to my attention that A1C [redacted] was entrusted by his roommate with paying several mutual bills the two airmen shared while his roommate was deployed for several months. The airman gave A1C [redacted] his ATM card and instructed him to withdraw cash to cover the airman's share of the bills. The total amount would have amounted to approximately \$400. Upon his return, the airman discovered that one of the bills was not paid and that A1C [redacted] withdrew approximately \$2400 during his absence. When confronted, A1C [redacted] indicated he did not have the money to pay back the airman. Subsequently, a criminal investigation was conducted and the charge was preferred.
- b. In preparation for trial, an interview with the victim revealed a set of facts and circumstances which allowed A1C [redacted] the opportunity to raise a mistake of fact defense claiming he was authorized to take out additional funds in the form of a loan.
- c. A1C [redacted] has subsequently paid the airman \$500. He is willing to execute a promissory note for \$1100 and to turn over three pieces of furniture mutually purchased by the two airmen as payment in full.
- d. While a court-martial would be appropriate in this case, I believe that repayment of the money and a discharge under other than honorable conditions provides a fair and just result for all parties concerned.

2. If this request for discharge is approved, I recommend that A1C [redacted] be furnished an under other than honorable conditions discharge. A1C [redacted] has not been promised or led to believe that the discharge to be issued would be anything except the worst authorized.

3. AIC: []

- a. Is not under investigation.
- b. Is not awaiting action under AFIs 36-2503 and 36-2902, or another section of this regulation.
- c. Is not awaiting result of trial.
- d. Is not absent without authority.
- e. Is not absent in hands of civil authorities.
- f. Has not been referred to a medical facility for examination.
- g. Is not in default with respect to public property or public funds.
- h. Has not completed 16 or more years of active military service.
- i. Is not accountable or responsible for public property or funds.
- j. Member has not received special pay, bonuses, or education assistance.

4. There has not been a report of recent misconduct.

5. Court-martial charges have been preferred. Attached are:
- a. A copy of the charges, DD Form 458, Charge Sheet.
 - b. Report of Investigation (Case Number SFOI 003-99).

6. Charges have been referred for trial.

7. At the time of the misconduct, the airman did not have a mental disease or defect that caused him to lack the substantial capacity either to appreciate the criminality of the acts, or to conform to the law (AFI 44-109). The airman presently has the capacity to understand the nature of the proceedings and to assist in the defense.

8. Information from the military record follows:

a. Date and term of enlistment and date this period of continuous active duty started, pay date, TAFMSD, and dates of prior service:

- (1) Date of enlistment: 26 Jun 96
- (2) Term of enlistment: 4 years
- (3) Date this period of continuous active duty started: 26 Jun 96
- (4) Pay Date: 26 Jun 96
- (5) TAFMSD: 26 Jun 96
- (6) Dates of prior service: None

b. Date of birth: 3 May 78

c. Test Scores: Adm - 63; Elect - 59; Gen - 70; Mech - 52

d. Formal training: Aerospace Ground Equipment Training

e. Date assigned to unit: 25 Feb 98

f. Current grade and effective date: (E-3) 26 Oct 97

g. Demotions: None

h. Time lost: None

i. Record of disciplinary actions:

AF Form 1137 (UIF Summary)

j. Overall ratings on enlisted performance reports most recent first: 3 (ref), 5

k. Favorable communications, citations, or awards: Air Force Training Ribbon

l. Derogatory data, other than action by courts-martial or under Article 15, UCMJ:

- (1) Letter of Reprimand, dated 28 Jul 98
- (2) Letter of Counseling, dated 26 Aug 98
- (3) Letter of Reprimand, dated 27 Aug 98

m. Medical or other data meriting consideration: None

n. A1C: does not hold a Reserve of the Air Force appointment as a commissioned or warrant officer.

Commander