

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 AMN	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>			
TYPE	GEN	PERSONAL APPEARANCE	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	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD				
A93.19 A92.21 A92.17	A67.50	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 IIF			
HEARING DATE	CASE NUMBER					
11 Jan 2007	FD-2006-00137					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
<p>Case heard in Washington, D.C.</p> <p>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</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p> <div style="border: 1px dashed black; height: 40px; width: 100%; margin-top: 20px;"></div>						
INDORSEMENT			DATE: 1/24/2007			
TO:		FROM:				
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742		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-2006-00137

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 admits that he made bad decisions during his off-duty time that were alcohol related incidents. The records indicated the applicant received two Article 15's, and a Vacation for misconduct. Both of the Article 15's received by applicant were for striking airmen with his fist. The first Article 15, he was punished with a suspended reduction in grade to Airman and a reprimand. The second Article 15, he received a suspended reduction in grade to Airman, forfeiture of \$645.00 pay for two months, and 30 days of correctional custody. He was disciplined with a Vacation action for driving under the influence of alcohol. He was reduced in grade to Airman. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate.

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

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

Issue 4. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on May 21, 2001) 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Kirtland AFB, NM on 19 Sep 03 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 9 Feb 81. Enlmt Age: 20 2/12. Disch Age: 22 7/12. Educ: HS DIPL. AFQT: N/A. A-56, E-64, G-59, M-60. PAFSC: 2A532A - Helicopter Maintenance Apprentice. DAS: 21 Mar 02.

b. Prior Sv: (1) AFRes 21 Apr 01 - 07 May 01 (17 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 May 01 for 6 years. Svd: 02 Yrs 04 Mo 12 Das, all AMS.

b. Grade Status: Amn - 20 May 03 (Vacation, 28 Jul 03)
A1C - 22 Jun 01

c. Time Lost: None.

d. Art 15's: (1) 28 Jul 03, Vacation, Kirtland AFB, NM - Article 111. You, did, on or about 13 Jul 03, in the parking lot of dormitory 20351 physically control a vehicle, to wit: a passenger car, while the alcohol concentration in your breath was 0.10 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. Reduction to Amn. (No appeal) (No mitigation)

(2) 20 May 03, Kirtland AFB, NM - Article 128. You, did, on or about 13 Apr 03, unlawfully strike A1C [REDACTED] on his person with your fist. Suspended reduction to Amn. Forfeiture of \$645 pay per month for 2 months, 30 days correctional custody. (No appeal) (No mitigation)

(3) 19 Nov 02, Kirtland AFB, NM - Article 128. You did, on or about 15 Sep 02, unlawfully strike A1C [REDACTED] on his person with your fist. Suspended reduction to Amn and Reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 08 May 01 - 09 Jan 03 Kirtland AFB 4 (Initial)

h. Awards & Decs: NDSM, AFTR, AFOUA, SAEMR.

i. Stmt of Sv: TMS: (02) Yrs (04) Mos (29) Das
TAMS: (02) Yrs (04) Mos (12) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 31 Mar 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BREIF.

ATCH

1. Applicant's Issues.
2. Seven character statements.

5JUN06/day

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.)

OMB No. 0704-0004 OMB approval 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.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY X AIR FORCE COAST GUARD
b. NAME (Last, First, Middle Initial)
c. GRADE/RANK AT DISCHARGE E-2
d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 20030919
4. DISCHARGE CHARACTERIZATION RECEIVED (X one) HONORABLE X GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS
5. BOARD ACTION REQUESTED (X one) X CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 58 ACFT MAINT Kirtland AFB NM 87117

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.) I received a General Discharge due to bad decisions made off duty. While my performance was exemplary on duty I conducted myself in an unprofessional manner several times which ultimately resulted in the destruction of my career. I held my responsibility to the United States Air Force in the highest regard, it pains me to think of the way I let alcohol get in the way of it. I tried time after time to through treatment, and counseling to kick the habit, but only after I had lost what was most important

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.)
1. Character Statement - SSgt; 2. Character Statement - SSgt; 3. Character Statement - SrA; 4. Character Statement - SrA; 5. Character Statement - SSgt; 6. Character Statement - Msgt; 7. Character Statement - Tsgt

9. TYPE OF REVIEW REQUESTED (X one) X CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD. I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA. I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)
b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.
[] SPOUSE [] WIDOW [] WIDOWER [] NEXT OF KIN [] LEGAL REPRESENTATIVE [] OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)
b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)
CASE NUMBER (Do not write in this space.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)
b. DATE SIGNED - REQUIRED (YYYYMMDD) 20060331
FD 2006-00137

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

to me was I able to pick up the pieces and try to salvage a meaningful existence. Since my separation I have quit drinking alcohol, learned a trade, and been trying to put myself through school. I am training to work on helicopters again in order to use the valuable knowledge I obtained from the Air Force. However due to financial constraints I am unsure of my ability to continue my education. I seek to upgrade my discharge in order to regain eligibility for my MGIB benefits, as well as to put behind me the shame of my actions during my enlistment.

As my attachments show I tried to the best of my ability to shine in every way. I have no excuse for my actions when under the influence of alcohol, only deep regret. If my upgrade is approved I will undoubtedly be able to achieve my goals of obtaining a degree, and becoming a more productive member of society.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)**16. REMARKS (If applicable)****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
58TH AIRCRAFT MAINTENANCE SQUADRON (AETC)
KIRTLAND AIR FORCE BASE NEW MEXICO

SEP 9 2003

MEMORANDUM FOR AMN:.....; 58 AMXS

FROM: 58 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically a pattern of misconduct. The authority for this action is AFPD 36-32, *Military Retirements and Separations* (14 Jul 93) and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.50 (28 May 03). If my recommendation is approved, your service will be characterized as Honorable or General (Under Honorable Conditions). I am recommending that your service be characterized as General (Under Honorable Conditions).

2. My reasons for this action are:

a. On 15 Sep 02, you unlawfully struck another airman with your fist, breaking his jaw. Inappropriate remarks were made between you and the other airman, but you were the one who threw the first punch. In fact, there is no evidence that the other airman even attempted to hit you at all. In your written statement to MSgt:..... on 8 Oct 02, you stated that you "have no excuse for my actions, as I know they were [were] wrong, and shame what the Air Force stands for. I have learned a valuable lesson, and should another confrontation arise, I will embrace the Core Value, Integrity, and do what is right even if no one is looking." On 19 Nov 02, I imposed punishment under Article 15, UCMJ, of a suspended reduction to the grade of airman and a reprimand. On 19 Nov 02, an Unfavorable Information File (UIF) was established based upon this incident. (Atch A)

b. Despite your statement that you "have learned a valuable lesson...and do what is right even if no one is looking," on 13 Apr 03, you were involved in another physical altercation with another airman. Alcohol was involved in the incident. You and the other airman got into a verbal altercation and punches were thrown. After knocking the other airman down, you followed a wise suggestion by another and went to your dormitory room. However, the wise decision by you to go to your dormitory room did not last long, as you returned a few minutes later and once again confronted the other airman. This time you threw the first punch and according to your statement to Security Forces on 13 Apr 03, you struck him "as many times as necessary" until he "was demobilized and no longer a threat." On 20 May 03, I imposed punishment under Article 15, UCMJ, of a suspended reduction to the grade of airman, forfeiture of \$645 pay per month for two months and thirty days correctional custody. On 20 May 03, this Article 15, UCMJ action was added to your UIF. In your statement to me dated 14 May 03, which was prior to my imposition of punishment under Article 15, UCMJ, you stated "I deeply regret my previous actions and they way I have disregarded the UCMJ, and shamed the United States Air Force. This is the second time and last time I will do so. I have learned from my mistakes, and I will do everything in my power to reverse the trend of insubordination." (Atch B)

DEPARTMENT OF THE AIR FORCE
58TH AIRCRAFT MAINTENANCE SQUADRON (AETC)
KIRTLAND AIR FORCE BASE NEW MEXICO

c. Despite your statement to me that you "have learned from my mistakes," on 13 Jul 03, you were arrested for driving under the intoxication of alcohol. While on a walking patrol at 0508, a security forces member stopped you while you were backing a vehicle out of a parking space near the dormitory rooms. The officer detected a strong odor of an alcoholic beverage emitting from your breath, as well as bloodshot and glassy eyes. At first you refused to provide a sample of your breath, but after you were advised of the New Mexico Implied Consent Policy, you provided a sample and had a .18 blood alcohol content. You were legally drunk under Article 111, UCMJ (Drunken or Reckless Operation of a Vehicle) and New Mexico State Law. On 28 Jul 03, the suspended reduction in rank to airman I had given you via an Article 15, UCMJ, on 20 May 03 was vacated. (Atch C)

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 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, bonuses, or education assistance funds may be subject to recoupment.

4. You have the right to consult counsel. Military legal counsel will be obtained to assist you. The legal office will make an appointment for you to consult with an area defense counsel. 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 within 3 workdays from today unless you request and receive an extension for good cause shown. I will send any timely written statements you give to me to the separation authority.

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

7. The Legal Office will obtain a mandatory medical examination for you at the 377th Medical Group (Family Practice).

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 in your unit orderly room or at the Area Defense Counsel's office, located at Building 20361, 8201 K Street, Kirtland AFB, NM 87117.



FOR OFFICIAL USE ONLY

DEPARTMENT OF THE AIR FORCE
58TH AIRCRAFT MAINTENANCE SQUADRON (AETC)
KIRTLAND AIR FORCE BASE NEW MEXICO

Commander

Attachments:

- A. Article 15, dated 19 Nov 02 (including the statements pertaining to the incident)
- B. Article 15, dated 20 May 03 (including the statements pertaining to the incident)
- C. Vacation of Suspended Nonjudicial Punishment, dated 28 Jul 03 (including information pertaining to the incident)