

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD									
NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)					GRADE		AFSN/SSAN		
<div></div>					AMN		<div></div>		
TYPE GEN		PERSONAL APPEARANCE			X	RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES		No							
		X							
MEMBER SITTING					VOTE OF THE BOARD				
					HON	GEN	UOTHC	OTHER	DENY
									X**
									X**
									X**
									X**
ISSUES		INDEX NUMBER			EXHIBITS SUBMITTED TO THE BOARD				
A94.05		A67.30			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 HE				
HEARING DATE		CASE NUMBER							
08 Feb 2007		FD-2006-00299							
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.									
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INDORSEMENT					DATE: 2/9/2007				
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-2006-00299
<p>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.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are denied.</p> <p>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.</p> <p>ISSUE:</p> <p>Applicant contends discharge was inequitable because it was too harsh and based on one isolated incident in 38 months of service. He has expressed a desire for upgrade of his discharge to allow for reenlistment into the armed forces. The records indicated the applicant had a Special Court Martial and was found guilty of unlawfully entering the dwelling unit of a female; being drunk and disorderly; and committing an indecent assault upon a female. He was punished with a reduction in grade to Airman, \$100.00 fine, 90 days of hard labor without confinement, restriction to Offutt AFB for 60 days and a reprimand. 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.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p>	

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 Offutt AFB, NE on 11 Feb 05 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 for Discharge.

2. **BACKGROUND:**

a. DOB: 4 Feb 81. Enlmt Age: 20 8/12. Disch Age: 24 0/12. Educ: HS DIPL. AFQT: N/A. A-89, E-78, G-72, M-69. PAFSC: 1A331 - Airborne Communications & Electronic Systems Apprentice. DAS: 11 Oct 03.

b. Prior Sv: (1) AFRes 4 Oct 01 - 18 Dec 01 (2 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Dec 01 for 4 yrs. Svd: 03 Yrs 01 Mo 23 Das, all AMS.

b. Grade Status: Amn - 13 Oct 04 (SPCMO No.1, 27 Oct 04)
A1C - 26 Apr 03
Amn - 26 Jun 02

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial Order No.1 - 27 Oct 04

CHARGE: Article 134. Plea: Not Guilty. Finding: Guilty.

Specification 1: Did, at or near Bldg 365, Room A209, Offutt AFB, Nebraska, on or about 7 Feb 04, unlawfully enter the dwelling unit of a female. Plea: Not Guilty. Finding: Guilty.

Specification 2: Was, at or near Offutt AFB, Nebraska, on or about 7 Feb 04, drunk and disorderly. Plea: Not Guilty. Finding: Guilty.

Specification 3: Did, at or near Bldg 365, Room A209, Offutt AFB, Nebraska, on or about 7 Feb 04, commit an indecent assault upon a female, a person not his wife, by putting his arm around her and groping her breasts, with intent to gratify his sexual desires. Plea: Not Guilty. Finding: Guilty. Sentence adjudged by officer members on 29 Sep 04: Reduction to Airman, \$100.00 fine, 90 days hard labor without confinement, restriction to Offutt AFB,

Nebraska for 60 days and a reprimand.

g. Record of SV: 19 Dec 01 - 15 Jan 04 Offutt AFB 5 (Initial)
16 Jan 04 - 07 Oct 04 Offutt AFB 3 (CRO) **REF**

h. Awards & Decs: AFAM, NDSM, MUA, GWOTSM.

i. Stmt of Sv: TMS: (03) Yrs (04) Mos (08) Das
TAMS: (03) Yrs (01) Mos (23) Das

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

(Change Discharge to Honorable, and Change the RE Code, Reason for Discharge)

Issue 1: My discharge is inequitable because it was based on one isolated incident in 38 months of service with no other adverse action.

Issue 2: The discharge is improper because a jury of Officers in my Special Court Martial did not find that my actions merited a discharge. If possible I am also hoping for a change in my RE code so I can hopefully serve my country again in the future.

ATCH

1. Air Force Achievement Medal.
2. Certificate of Appreciation.
3. Enlisted Performance Report.
4. AF Form 100.
5. DD Form 214 (Member-1).
6. Response to Letter of Notification of Discharge.
7. Two Letters of Recommendation.
8. Discharge Acknowledgement.
9. Two Character References.

07SEP06/ia



DEPARTMENT OF THE AIR FORCE

Headquarters, 55th Wing (ACC)
Offutt Air Force Base, Nebraska

FD 2006-00299

1 FEB 2005

MEMORANDUM FOR AMN: [REDACTED], 1 ACCS

FROM: 1 ACCS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Misconduct—Commission of a Serious Offense. The authority for my recommendation is AFD 36-32 and AFI 36-3208, paragraph 5.52.3. 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.

2. My reason for this action is:

a. On or about 7 February 2004, you unlawfully entered the dwelling unit of a female. For this incident you were convicted by a Special Court-Martial resulting in a reduction to the grade of E-2, a \$100.00 fine, 90 days hard labor without confinement, restriction to Offutt Air Force Base, Nebraska, for 60 days and a reprimand. (Atch)

b. On or about 7 February 2004, you were drunk and disorderly. For this incident you were convicted by the same Special Court-Martial identified in paragraph 2.a. above. (Atch)

c. On or about 7 February 2004, you committed an indecent assault upon a female, a person not your wife, by putting your arm around her and groping her breasts, with the intent to gratify your sexual desires. For this incident you were convicted by the same Special Court-Martial identified in paragraph 2.a. above. (Atch)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force and probably any other branch of the military.

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 Captain [REDACTED], Bldg 323C, Room 302, Phone 4-3939, at 1000 on 1 Feb 05. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 4 Feb 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 on 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 the 55th Medical Group, Flt Medicine at 0715 on 1 Feb 05 for the examination. Please pick up your medical records prior to your appointment.

8. You have been scheduled for an initial separation appointment. You must report to the 55th Mission Support Squadron, Separations and Retirements Section, Room 235, Bldg 323C, at 1030 on 1 Feb 05 with your escort.

9. 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 the unit orderly room.

10. Execute the acknowledgment provided and return it to me immediately.



Commander, 1st Airborne Command and Control Squadron

Attachment
Special Court Martial Order No. 1