

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 AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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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	UO/HC	OTHER	DENY
					X**
					X**
					X**
					X**
					X**

ISSUES A93.01	INDEX NUMBER A67.30	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 HE

HEARING DATE 21 Feb 2007	CASE NUMBER FD-2006-00330	
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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.

* Reason and Authority
+ Reenlistment Code

INDORSEMENT	DATE: 2/23/2007
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, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00330

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.

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, change of reason and authority for discharge, and change of reenlistment code are denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE:

The applicant submitted no issues and realized his actions while in the military were unacceptable and requested that the review be completed based on the available service record. The applicant expressed a desire for upgrade of his discharge to allow for reenlistment into the armed forces. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received an Article 15 and five Letters of Reprimand for misconduct. He received an Article 15 for failing to refrain from storing a weapon in his dormitory room, unlawfully carrying a concealed weapon, and communicating a threat to another airman. He was punished with a reduction in grade to Airman Basic, restricted to base for 30 days, and 30 days of extra duty. He was administratively disciplined for dereliction of duty, driving on base with expired registration, failure to obey a lawful order, failure to go, reporting to duty unshaven and with uniform not pressed, and failure to replace a lost restricted area badge. 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.

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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Minot AFB, ND on 5 Dec 02 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: 20 Sep 83. Enlmt Age: 17 1/12. Disch Age: 19 2/12. Educ: HS DIPL. AFQT: N/A. A-71, E-72, G-70, M-79. PAFSC: 3P031 - Security Forces Apprentice. DAS: 12 Dec 01.

b. Prior Sv: (1) AFRes 14 Nov 00 - 21 May 01 (6 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 22 May 01 for 6 yrs. Svd: 01 Yrs 06 Mo 14 Das, all AMS.

b. Grade Status: AB - 12 Nov 02 (Article 15, 12 Nov 02)
A1C - 6 Jun 01

c. Time Lost: None.

d. Art 15's: (1) 12 Nov 02, Minot AFB, ND - Article 92. You, who knew of your duties, on divers occasions, between on or about 23 Sep 02 and on or about 25 Oct 02, were derelict in the performance of those duties in that you willfully failed to refrain from storing a weapon in your dormitory room, as it was your duty to do. Article 134. You did, at or near the Continental United States, on divers occasions, between on or about 27 Sep 02 and on or about 25 Oct 02, unlawfully carry on or about your person a concealed weapon, to wit: a handgun. Article 134. You did, between on or about 4 Oct 02 and on or about 6 Oct 02, wrongfully communicate to A1C [redacted] a threat by stating "there will be murders" or words to that effect. Reduction to AB, restriction to Minot AFB, North Dakota for 30 days, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 25 JUL 02 - Failure to replace lost restricted area badge.
LOR/UIF, 01 JUL 02 - Reporting for duty unshaven and with a uniform needing pressing.
LOR/UIF, 01 JUL 02 - Failure to go and failure to obey an order or regulation.
LOR, 26 JUN 02 - Driving on base with expired vehicle

registration and failure to obey a lawful order.

LOR, 29 APR 02 - Dereliction of duty.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (00) Mos (22) Das

TAMS: (01) Yrs (06) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 09 Aug 06.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Certificate of Training.

20SEP06/ia

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

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	AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE			d. SOCIAL SECURITY NUMBER	
	AB				

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 2002 Dec 05	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)		5. BOARD ACTION REQUESTED (X one)
	<input type="checkbox"/> HONORABLE <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS		
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 5 SFS Minot AFB ND	BAD CONDUCT (Special court-martial only)		
	UNCHARACTERIZED		
	OTHER (Explain)		

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)
 I want to fulfill my original 6 year commitment to the US Military by upgrading my "Discharge" from General to "Honorable" and change my "RE" code from 2B to one that will allow me to enlist with the 178th FW OHANG unit in Springfield Ohio. I have contacted the bases recruiter and this is the first step of my commitment to finish what I started at age 17. See block 14.

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.)

9. TYPE OF REVIEW REQUESTED (X one)

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.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.) FD 2006-00330
	2006/08/09	



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 5TH BOMB WING (ACC)
MINOT AIR FORCE BASE, NORTH DAKOTA

FD 2006-00330

NOV 21 2002

MEMORANDUM FOR AB: [REDACTED] 5 SFS

FROM: 5 SFS/CC

SUBJECT: Letter of Notification - AFI 36-3208, Paragraph 5.52.

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, commission of serious offenses. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, 14 Jul 93, and AFI 36-3208, *Administrative Separation of Airmen*, 10 Mar 00, Chapter 5, Section H, paragraph 5.52.3. If my recommendation is approved, your discharge will be characterized as general or honorable. I am recommending your service be characterized as general.

2. My reasons for this action: Between on or about 23 Sep 02 and on or about 25 Oct 02, you were involved in the following misconduct:

a. You, who knew of your duties at or near Minot Air Force Base, North Dakota, on divers occasions, between on or about 23 Sep 02 and on or about 25 Oct 02, were derelict in the performance of those duties in that you willfully failed to refrain from storing a weapon in your dormitory room, as it was your duty to do.

b. You did, at or near the Continental United States, on divers occasion, between on or about 27 Sep 02 and on or about 25 Oct 02, unlawfully carry on or about your person a concealed weapon, to wit: a handgun.

c. You did, at or near Minot Air Force Base, North Dakota, between on or about 4 Oct 02 and on or about 6 Oct 02, wrongfully communicate to Airman First Class [REDACTED] a threat by stating "there will be murders" or words to that effect.

You were punished under Article 15 of the UCMJ on 12 Nov 02 and this was added to your existing Unfavorable Information File (UIF). (Atch 3)

3. Other misconduct:

a. In Jul 02, you reported you lost your Restricted Area Badge and web gear. You were initially scheduled to get your badge replaced on 17 Jul 02, at 1200 hours. You failed to make the appointment and were rescheduled for 22 Jul 02 which was a Wing UTE Day. You were again reschedule for 24 Jul 02 at 1445, which you failed to make. You were given a Letter of Reprimand (LOR) on 25 Jul 02 and this was added to your existing UIF on 1 Aug 02. (Atch 4-5)

b. On or about 27 Jun 02, you reported for M-16 AFQC firing not IAW AFI 36-2903, Dress and Appearance of Air Force Personnel, specifically, you were not shaved and your uniform was not pressed. You were given a LOR on 1 Jul 02 and an UIF was established on 24 Jul 02. (Atch 6)

c. On or about 29 Jun 02, you failed to go at the time prescribed to your appointed place of duty, to wit: guardmount. You were given a LOR on 1 Jul 02 and an UIF was established on 24 Jul 02. (Atch 7-8)

d. On 25 Jun 02, your flight leadership was informed by an AF FM 1168, that on or about 24 Jun 02 you drove your vehicle on base without your vehicle being currently registered. You were given a LOR on 26 Jun 02. (Atch 9)

e. On or about 27 Apr 02, you were derelict in the performance of your duties in that you intentionally passed the duress word at the Main Gate to impress a girl. You were given a LOR on 30 Apr 02. (Atch 10)

4. The Letter of Notification with attachments will be forwarded to the separation authority in support of this recommendation. The commander exercising SPCM jurisdiction (5 BW/CC) 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.

5. 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 Capt: Area Defense Counsel, at 300 Summit Drive, Room 306A, at 0930 hours on 22 NOV 2002. You may consult civilian counsel at your own expense.


6. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 1152 hours on 21st of Nov 2002, unless you request and receive an extension for good cause shown. I will send any statements you provide to the separation authority.

7. 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.

8. You have been scheduled for a medical examination. You must report to the 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND, at 1000 hours on 25 NOV 2002, for the examination. You must not drink alcoholic beverages 72 hours prior to the exam.

9. The Privacy Act of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the Orderly Room.

10. Sign the attached acknowledgment and the Statement of Understanding and return them to me immediately.


Commander, 5th Security Forces Squadron

Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 18 Nov 02
4. Letter of Reprimand, 25 Jul 02
5. AF FM 1058, Unfavorable Information File Action, 1 Aug 02
6. Letter of Reprimand, 1 Jul 02
7. Letter of Reprimand, 1 Jul 02
8. AF FM 1058, Unfavorable Information File Action, 24 Jul 02
9. Letter of Reprimand, 26 Jun 02
10. Letter of Reprimand, 29 Apr 02