

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>			
TYPE BCD	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBER SITTING <div style="border: 1px dashed black; height: 100px; width: 100%;"></div>		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A93.01	INDEX NUMBER A68.00	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 22 Feb 2007	CASE NUMBER FD-2006-00335					
<small>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</small>						
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: 3/1/2007			
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			

GENERAL: The applicant appeals for upgrade of discharge to General.

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 evidence of record does not provide a sufficient basis in clemency for a change of discharge.

ISSUES:

The applicant's issues are listed in the attached brief.

The applicant received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court-Martial conviction. Under the provisions of Section 1553, 10 USC, the only basis for a change of a Bad Conduct discharge is clemency. The applicant provided no evidence to which the DRB could review. The Board concluded the reason for the discharge received by the applicant was found to be appropriate and did not warrant granting clemency.

CONCLUSIONS: The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

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 BCD Disch fr USAF Offutt AFB, NE on 27 Oct 04 UP SPCMO No.9 (Conviction by Court Martial). Appeals for General Discharge.

2. **BACKGROUND:**

a. DOB: 20 Mar 81. Enlmt Age: 17 7/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-88, E-61, G-49, M-77. PAFSC: 2R131 - Maintenance Production Management Apprentice. DAS: 24 Dec 99.

b. Prior Sv: (1) AFRes 22 Oct 98 - 22 Jun 99 (8 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 23 Jun 99 for 4 yrs. Svd: 05 Yrs 04 Mo 05 Das, all AMS.

b. Grade Status: AB - 5 Aug 02 (SPCMO#9, 29 Aug 02)
Amn - 29 Oct 01 (Article 15, 29 Oct 01)

c. Time Lost: None.

d. Art 15's: (1) 05 Mar 02, Spangdahlem AB, Germany - Article 86. You did, at or near Spangdahlem Air Base, Germany, on or about 8 February 2002, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 147, Mosel Dining Facility. Article 111. You did, at or near Spangdahlem Air Base, Germany, on or about 26 January 2002, physically control a vehicle, to wit: a passenger car, while drunk. Reduction to the grade of Airman Basic. Forfeiture of \$100.00 pay per month for 2 months. Restriction to the limits of Spangdahlem Air Base, Germany for 30 days, with the exception of Eifel West Annex, Germany, for medical treatment as the need arises. Fifteen days extra duty. (Appeal/Denied) (No mitigation)

(2) 29 Oct 01, Spandahlem AB, Germany - Article 121. You did, at or near Meilbruck, Germany, on or about 18 October 2000, steal gasoline, of a value of about \$30.00, the property of [REDACTED] Article 134. You, the driver of a vehicle at the time of an accident in which said vehicle was involved, and having knowledge of said accident, did, at or near Herforst, Germany, on or about 20 October 2000, wrongfully leave the scene of the accident without making your identity known. Article 134. You did, at or near Spangdahlem Air Base,

Germany, on or about 21 October 2000, in a sworn statement, wrongfully and unlawfully subscribe under lawful oath a false statement in substance as follows: "I never hit anything," which statement you did not then believe to be true. Reduction to the grade of Airman. (No appeal) (No mitigation)

e. Additional: None.

f. CM: Special Court Martial No.9 - 29 Aug 02

CHARGE I: Article 112a. Plea: G. Finding: G.

Specification: Did, at or near Spangdahlem Air Base, Germany, between on or about 1 October 2001 and on or about 31 December 2001, wrongfully distribute oxycodone, commonly referred to as percocet, a Schedule II controlled substance. Plea: G. Finding: G.

CHARGE II: Article 128. Plea: G. Finding: G.

Specification 1: Did, at or near Spangdahlem Air Base, Germany, on or about 2 February 2002, commit an assault upon A1C [redacted] by putting the blade of a knife to A1C [redacted] throat with a means or force likely to produce death or grievous bodily harm. Plea: G. Finding: G.

Specification 2: Did, at or near Spangdahlem Air Base, Germany, on or about 2 February 2002, unlawfully strike A1C [redacted] on the face with his hand. Plea: G. Finding: G.
Sentence adjudged by military judge on 1 August 2002: Bad Conduct Discharge and Confinement for 5 months.

g. Record of SV: 23 Jun 99 - 15 Jan 01 Spangdahlem AB 2 (HAF Dir)REF
16 Jan 01 - 15 Jan 02 Spangdahlem AF 1 (Annual)REF

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (06) Yrs (00) Mos (06) Das
TAMS: (05) Yrs (04) Mos (05) Das

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

Issue 1: When I was enlisted I had a "young & stupid" mentality. After serving my confinement and being discharged from the service I was forced to "grow up" and I have learned the hard way rather quickly. I am now married and have a child. With having my discharge as a bad conduct discharge I have been looked over for several jobs and several promotions as I have a natatory mark on my permanent record. I would like to be able to provide better for my family and myself. Please upgrade my discharge to general under honorable to help in the quest to be a better provider for my family. Thank you for your time.

FD2006-00335

ATCH
None.

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DNA processing required. 10 U.S.C. § 1565

**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 52D FIGHTER WING (USAFE)
APO AE 09126-3680**

**Special Court-Martial Order
No. 9**

29 August 2002

AIRMAN BASIC: _____, United States Air Force, 52d Aircraft Maintenance Squadron (formally a member of the 81st Fighter Squadron) (USAFE), was arraigned at Spangdahlem Air Base, Germany, on the following offenses at a court-martial convened by this headquarters.

CHARGE I: Article 112a Plea: G. Finding: G.

Specification: Did, at or near Spangdahlem Air Base, Germany, between on or about 1 October 2001 and on or about 31 December 2001, wrongfully distribute oxycodone, commonly referred to as percocet, a Schedule II controlled substance. Plea: G. Finding: G.

CHARGE II: Article 128 Plea: G. Finding: G.

Specification 1: Did, at or near Spangdahlem Air Base, Germany, on or about 2 February 2002, commit an assault upon Airman First Class: _____ by putting the blade of a knife to Airman First Class: _____ throat with a means or force likely to produce death or grievous bodily harm. Plea: G. Finding: G.

Specification 2: Did, at or near Spangdahlem Air Base, Germany, on or about 2 February 2002, unlawfully strike Airman First Class: _____ on the face with his hand. Plea: G. Finding: G.

SENTENCE

Sentence adjudged by military judge on 1 August 2002: Bad Conduct Discharge and Confinement for 5 months.

ACTION

In the case of AIRMAN BASIC: [redacted]; United States Air Force, 52d Aircraft Maintenance Squadron (formally a member of the 81st Fighter Squadron), the sentence is approved and, except for the bad conduct discharge, will be executed. The Air Force Corrections System is designated for the purpose of confinement, and the confinement will be served therein or elsewhere as the Chief, Corrections Division, may direct. The term of confinement is currently being served at U.S. Army Confinement Facility-Europe. Unless competent authority otherwise directs, upon completion of the sentence to confinement, Airman Basic: [redacted] will be required under Article 76a, UCMJ, to take leave pending completion of appellate review of the conviction.

/s/ [redacted]
Commander

FOR THE COMMANDER

[redacted]
Staff Judge Advocate

DISTRIBUTION:

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- 1 - Maj [redacted], 52 FW/JA, Unit 3680, Box 205, APO AE 09126-0205 (TC)
- 1 - Capt [redacted], AFLSA/ADC, Unit 10020 Box 575, APO AE 09094-5575 (ADC)
- 1 - 52 FW/CC, Unit 3680, Box 190, APO AE 09126
- 1 - 52 AMX/CC, Unit 3715, APO AE 09126
- 2 - Commander, 9th Military Police Detachment, Unit 29724, APO AE 09028
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- 4 - HQ AFSFC/SFC, 1720 Patrick Street, Lackland AFB, TX 78236-5226
- 1 - HQ 11 WG/JAJR, 20 MacDill Blvd, Room 207, Bolling AFB, DC 20332-0110
- 1 - AFOSI, Det 518, Unit 3745, APO AE 09126

FD 2006-00335

SPCMO No. 16, 29 September 2003, was the last SPCMO of this headquarters published in FY 2003

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**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS EIGHTH AIR FORCE (ACC)
BARKSDALE AIR FORCE BASE LOUISIANA 71110-2290**

Special Court-Martial Order
No. 1

2 October 2003

In the special court-martial case of AIRMAN BASIC: [REDACTED]
United States Air Force, 52d Aircraft Maintenance Squadron (currently assigned to the 55th Mission Support Squadron, Offutt Air Force Base, Nebraska) the sentence to a bad-conduct discharge and confinement for 5 months, as promulgated in Special Court-Martial Order No. 9, Headquarters 52d Fighter Wing (USAFE), dated 29 August 2002, has been finally affirmed. Article 71(c) having been complied with, the bad-conduct discharge will be executed. The sentence was adjudged by the military judge alone on 1 August 2002. (ACM S30182)

[REDACTED]
Lieutenant General, USAF
Commander

DISTRIBUTION:

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- 1 - Maj Randon H. Draper, PSC 9 Box 4044, APO AE 09464-0000 (TC)
- 1 - Capt James E. Key III, USAF Judiciary, Western Circuit, 540 Airlift Dr Ste B-123, Travis AFB CA 94535-2478 (ADC)
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- 1 - 55 WG/CC, 711 Nelson Dr, Offutt AFB NE 68113-0000
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SPCMO No. 1