

**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>
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<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
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<b>COUNSEL</b>	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; text-align: center;">YES</td> <td style="width:50%; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"><b>X</b></td> </tr> </table>	YES	No		<b>X</b>		
YES	No					
	<b>X</b>					

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTIC	OTHER	DENY
<div style="border: 1px dashed black; height: 100%; width: 100%;"></div>					X
					X
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<b>ISSUES</b> A94.05	<b>INDEX NUMBER</b> A67.30	<b>EXHIBITS SUBMITTED TO THE BOARD</b>														
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE HE</td></tr> </table>	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
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<b>HEARING DATE</b> 13 Mar 2007	<b>CASE NUMBER</b> FD-2006-00358	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

<b>INDORSEMENT</b>	<b>DATE:</b> 3/19/2007
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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-2006-00358**

**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:**

Applicant contends discharge was inequitable because it was too harsh. Applicant admits he made a mistake. He contends that his commander had told him that he would be retrained. Upon returning from confinement, he finished out his sentence by serving base restriction. While he was waiting for his paperwork to be processed, his commander was reassigned. The new commander was not aware of the retraining package and processed the applicant for an administrative discharge. The records indicated the applicant received a Special Court Martial for wrongfully drawing his firearm when the lawful use of deadly force was not necessary, and failure to maintain attention, alertness, and vigilance as a sentinel. He was sentenced to a reduction in grade to Airman Basic, confinement for 30 days, and restriction to base for 30 days. The DRB reviewed the applicant's entire record and found no evidence of an impropriety or inequity. The Board concluded the applicant's 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 AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Tinker AFB, OK on 22 Dec 04 UP AFI 36-3208, para 5.52.3 (Commission of a Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 Jun 83. Enlmt Age: 18 0/12. Disch Age: 21 6/12. Educ: HS DIPL. AFQT: N/A. A-61, E-49, G-59, M-56. PAFSC: 3P031 - Security Forces Apprentice. DAS: 14 May 02.

b. Prior Sv: (1) AFRes 26 Jun 01 - 26 Nov 01 (5 months 1 day)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 Nov 01 for 6 days. Svd: 03 Yrs 00 Mo 26 Das, of which AMS is 02 Yrs 11 Months 26 Days (excludes 30 days lost time).

b. Grade Status: Amn - 30 Jul 04  
AB - 16 Dec 03 (SPCMO No.4, 16 Jan 04)  
A1C - Unknown

c. Time Lost: 27 Dec 03 thru 27 Jan 04 (30 days).

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial No.4 - 16 Jan 04

CHARGE I: Article 92. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Tinker AFB, Oklahoma, on or about 9 May 03, violate a lawful general regulation, to wit: paragraph 2.12, AFI 31-207, dated 1 Sep 99, by wrongfully drawing his firearm when the lawful use of deadly force was not necessary. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 92. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Tinker AFB, Oklahoma, who knew of his duties, on or about 9 May 03, was derelict in the performance of those duties in that he willfully failed to maintain attention, alertness, and vigilance as a sentinel, as it was his duty to do. Plea: Guilty. Finding: Guilty. Sentence adjudged by military judge on 16 Dec 03: Confinement for 30 days,

restriction to the limits of Tinker AFB, Oklahoma for 30 days, and reduction to AB.

g. Record of SV: 28 Nov 01 - 27 Jul 03 Tinker AFB 5 (Initial)  
28 Jul 03 - 27 Jul 04 Tinker AFB 2 (Annual)REF

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (04) Mos (27) Das  
TAMS: (02) Yrs (11) Mos (26) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 05 Sep 06.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. DD Form 214.
3. Twenty Exhibits.

16OCT06/ia

<b>APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES</b> <i>(Please read instructions on Pages 3 and 4 BEFORE completing this application.)</i>		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.		
<b>PRIVACY ACT STATEMENT</b>		
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.		
<b>1. APPLICANT DATA</b> <i>(The person whose discharge is to be reviewed).</i> PLEASE PRINT OR TYPE INFORMATION.		
a. BRANCH OF SERVICE <i>(X one)</i>		AIR FORCE <input checked="" type="checkbox"/>
b. NAME <i>(Last, First, Middle Initial)</i>		c. GRADE/RANK AT DISCHARGE E-2 (Amn)
d. SOCIAL SECURITY NUMBER		
<b>2. DATE OF DISCHARGE OR SEPARATION</b> (YYYYMMDD) <i>(If date is more than 15 years ago, submit a DD Form 149)</i> 2004 12 22		<b>4. DISCHARGE CHARACTERIZATION RECEIVED</b> <i>(X one)</i>
<b>3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION</b> 72 <sup>nd</sup> SFS Tinker AFB, OK		HONORABLE <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS
		<b>5. BOARD ACTION REQUESTED</b> <i>(X one)</i> <input checked="" type="checkbox"/> CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i> CHANGE NARRATIVE REASON FOR SEPARATION TO:
<b>6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST</b> <i>(Continue in Item 14. See instructions on Page 3.)</i> I was promised a re-train or to cross-train and be given a second chance in the military by my commander at the time. Then the unit received a new commander and he decided I wasn't fit for a re-train and decided to push an administrative discharge.		
<b>7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.</b>		
<b>8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE:</b> <i>(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)</i> Attached Exhibits A-T. Copy of DD Form 214 Copy of Personnel Summary		
<b>9. TYPE OF REVIEW REQUESTED</b> <i>(X one)</i> <input checked="" type="checkbox"/> CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR <i>(counsel/representative)</i> WILL NOT APPEAR BEFORE THE BOARD. <input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA. <input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO <i>(enter city and state)</i> <small>(NOTE: The Navy Discharge Review Board does not have a traveling panel.)</small>		
<b>10.a. COUNSEL/REPRESENTATIVE</b> <i>(If any)</i> NAME <i>(Last, First, Middle Initial)</i> AND ADDRESS <small>(See Item 10 of the instructions about counsel/representative.)</small>		b. TELEPHONE NUMBER <i>(Include Area Code)</i> c. E-MAIL d. FAX NUMBER <i>(Include Area Code)</i>
<b>11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW.</b> 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 and relationship by marking a box below.		
SPOUSE <input type="checkbox"/> WIDOW <input type="checkbox"/> WIDOWER <input type="checkbox"/> NEXT OF KIN <input type="checkbox"/> LEGAL REPRESENTATIVE <input type="checkbox"/> OTHER <i>(Specify)</i>		
<b>12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE</b> <small>(Forward notification of any change in address.)</small>		b. TELEPHONE NUMBER <i>(Include Area Code)</i> c. E-MAIL d. FAX NUMBER <i>(Include Area Code)</i> N/A
<b>13. CERTIFICATION.</b> 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. <i>(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.)</i>		CASE NUMBER <small>(Do not write in this space.)</small> FD 2006-00358
a. SIGNATURE - REQUIRED. <i>(Applicant or person in Item 11 above)</i>		b. DATE SIGNED - REQUIRED (YYYYMMDD) 2006 09 05

September 05, 2006

Memorandum For: Discharge Review Board (DRB)

From: [Redacted]

Subject: Discharge Upgrade

I received an Administrative Discharge (General-Under Honorable Conditions) on 22 December 2004 from the United States Air Force. I was stationed at Tinker AFB, OK with the 72nd SFS/SFOB and my AFSC was 3PO51. I am asking that you review my discharge and hope that you will see it fit for an upgrade. I feel as though I was done wrong by the decisions of some and hope I can at least come out in the end with an honorable discharge on my record.

I would like to start by saying I messed up, I admitted it then and I'll admit it now, and there's nothing I can do or say to change it. The incident that occurred that got me where I'm at today occurred while me and two fellow co-workers were working together at an Installation Gate on a late shift. And basically what it boils down to is traffic was few and far between that night so we had a lot of down time and began getting bored. This led to some horseplay starting up and a video camera was present. Well Amn Bishop was recording what was going on with his video camera and he started quickdrawing his 9mm and things to that nature. And briefly stating during the course of the night I had my 9mm pointed in Spc. [Redacted] general direction and had my genitalia exposed during that shift. The videotape of that night later surfaced during an investigation into Amn [Redacted] When this occurred Spc. [Redacted] and I were removed from flight. This incident occurred on May 09, 2003 and it was shortly after that when we were relieved from duty and an investigation started.

While relieved of duty I was placed on the ROD Squad in which are duties were cleaning up around the squadron, picking up trash around base, cleaning the dorms, etc... It was basically your weeds and seeds detail. I remained on this detail for over seven months before a decision was made on

Exhibit B

Page 1 of 4 pages.

[Redacted]

the investigation. They decided to send me to a special court-martial. My court-martial took place on December 16, 2003. I pleaded guilty and was found guilty of two violations of Article 92. The results from the court-martial were: Reduction to E-1 (AB), 30 days of confinement, and 30 days base restriction. I was not to receive a discharge from the courts; after my sentence was served I was to return to be given a second chance. When I was talking with the judge after the trial he wished me luck in overcoming this ordeal and told me that if the prosecution wouldn't have been pressing so hard for jail time the he wouldn't have given me any in my sentence because he personally didn't see it fit. My sentence was deferred until December 27, 2003 after the Christmas holiday.

After returning on January 21, 2004 from serving my confinement part of my sentence, I finished out my sentence by serving my base restriction. After returning I was placed back on the ROD Squad to await a decision from the Commander to return to flight or re-train. After about a month the Commander called me into his office and informed me of his decision to let me re-train into another career field. During this I came up for an EPR and was given extremely poor marks by my supervisor. He told me that he had written up a different one that was rejected by his superiors for being too high of marks and should be lower because of my court-martial. I found this very sickening that because of my court-martial I should have low marks and not measured by my actual performance during this time.

During this time I was given the responsibility of being in charge of the ROD Squad. This entitled me with the duties of making sure everyone showed up on time, making sure they all went to their detail, and finished the work that they needed to get done. During this time I reported to the First Shirt to receive my orders. I was waiting patiently to await my orders to re-train and occasionally mentioned something about it to the First Shirt to see what kind of progress has been made. The First Shirt told me that my package had already been sent in and that they were just waiting to receive word back on it. I then was given the detail of working at our CATM Shop because the firing range was in bad need of repair. So I assisted with this project and after it was completed I remained at the CATM Shop assisting where they needed me while still looking after the other ROD members. I found this kind of odd that if I couldn't arm back up and go to work then why would I be working at the CATM Shop where I was in the presence weapons all day long. Well during this time our current Commander received different orders and was re-assigned elsewhere.



When the new Commander arrived he was informed of my situation and to my knowledge wasn't going to change the decision made by the last Commander. Another month or so had passed by and I still hadn't heard anything on my package so I mentioned something about it to the First Shirt. He informed me that the package had been sent back for corrections and that they would correct everything and re-send it. The First Shirt received orders for overseas shortly after this and a replacement or temporary was selected. I went and talked with the new Shirt about my situation and my re-train. She informed me that she was not aware of my re-train and that she would look into it for me. After she looked into it she informed me that she couldn't find anything on my re-train and that the Commander was unaware of this also. After I received this news I went down to the Personnel Office and asked them if anything had ever been sent in on my behalf about a re-train. The Personnel Office informed me that they had never received a re-train package or anything else on my behalf and that they were sorry they couldn't help.


I then had a meeting with the Commander to discuss my situation and he told me that he was unaware that I was supposed to re-train and said that as long as I didn't have any documentation from the old Commander or the First Shirt stating that they were going to let me re-train then he would have to overlook my case and make an appropriate decision on my outcome. After a good amount of time had passed he called me back into his office and informed me of his decision not to let me re-train and was instead going to initiate an administrative discharge. When I was informed of this decision I felt like I had been cheated because I was promised one thing but received something totally the opposite. I felt like I was led on when I was told that a package had been put together and was sent off and after a little checking found that that this was not true. I feel as though if the judge could see me fit for a second chance and my previous Commander was going to give me a second chance, why is it that this Commander didn't see me fit for a second chance.

Up to this incident I had never been in any trouble or even received any bad remarks, LOC's, or LOR's. I had done a lot of volunteer work for the squadron and the base devoting a lot of my free time when it wasn't necessary to. Even after this incident I devoted a lot of my spare time towards the squadron helping out with numerous events and charities. I made one mistake and had to pay dearly for it, given this was not just a little mistake but instead a pretty severe one if there was so many people that thought I

Exhibit BPage 3 of 4 pages.



- 6. You have been scheduled for a medical examination. You must report to Family Practice, Tinker AFB Hospital on 10 Dec 2004, at 1110 hours for the examination.
- 7. 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 at Orderly Room.
- 8. Execute the attached acknowledgment and return it to me immediately.

  
Commander

- Attachments:
- 1. Supporting Documents
  - 2. Receipt of Notification Memorandum