

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []		GRADE AB	AFSN/SSAN []				
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	UOHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A94.05 A92.17		INDEX NUMBER A67.10		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 08 Feb 2007		CASE NUMBER FD-2005-00368					
<small>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</small>							
<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> 							
INDORSEMENT			DATE: 2/12/2007				
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

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 contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15's for misconduct. Applicant received his first Article 15 for driving under the influence and failing to refrain from possessing alcohol while under the age of 21. He was punished with a reduction in grade to Airman Basic, restricted to base for 30 days, and a reprimand. His second Article 15 was for driving under the influence of alcohol and driving in a reckless manner. He was reduced in grade to Airman Basic, restricted to base for 30 days, required to perform 30 days of extra duty, and a reprimand. 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.

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

[REDACTED] (Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Davis-Monthan AFB, AZ on 5 Nov 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Oct 82. Enlmt Age: 19 4/12. Disch Age: 22 0/12. Educ: HS DIPL. AFQT: N/A. A-61, E-45, G-47, M-49. PAFSC: 3P051 - Security Forces Journeyman. DAS: 2 Oct 02.

b. Prior Sv: (1) AFRes 28 Feb 02 - 6 May 02 (2 months 9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 7 May 02 for 4 yrs. Svd: 02 Yrs 05 Mo 29 Das, all AMS.

b. Grade Status: AB - 21 Sep 04 (Article 15, 21 Sep 04)
A1C - 27 Apr 04
Amn - 27 Jun 03
AB - 27 Dec 02 (Article 15, 27 Dec 02)
Amn - 8 Nov 02

c. Time Lost: None.

d. Art 15's: (1) 21 Sep 04, Davis-Monthan AFB, AZ - Article 111. You did, on or about 29 Aug 04, near Craycroft and Madera Road, operate a vehicle, to wit: a passenger car, 1999 Four Door Sedan Mazda, while drunk in a reckless manner by almost hitting A1C Gary W. Flacksenburg. You did, on or about 29 Aug 04, near Kachina Road operate a vehicle, to wit: a passenger car, 1999 Four Door Sedan Mazda, while drunk in a reckless manner by driving with your headlights turned off at night. Reduction to AB. Restriction to Davis-Monthan AFB, AZ for 30 days, 30 days extra duty, and a reprimand. (No appeal) (No mitigation)

(2) 27 Dec 02, Davis-Monthan AFB, AZ, Article 92. You, who knew of your duties at or near Nogales, Arizona, between on or about 30 Nov 02 and on or about 1 Dec 02, were derelict in the performance of those duties, in that you willfully failed to refrain from drinking and possessing alcoholic beverages while under the age of 21, as it was your duty to do. Article 111. You did, at or near

Tucson, Arizona, between on or about 30 Nov 02 and on or about 1 Dec 02, physically control a vehicle, to wit: a passenger car, while drunk. Reduction to AB. Restriction to Davis-Monthan AFB, AZ, for 30 days, and a reprimand. (No appeal) (No mitigation)

- e. Additional: None.
- f. CM: None.
- g. Record of SV: 7 May 02 - 6 Jan 04 Davis Monthan AFB 4 (Initial)
- h. Awards & Decs: NDSM, AFTR.
- i. Stmt of Sv: TMS: (02) Yrs (08) Mos (09) Das
TAMS: (02) Yrs (05) Mos (29) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 13 Sep 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.
- 2. DD Form 214 (Member 1 & 4).
- 3. AF Form 77, Supplemental Evaluation Sheet.
- 4. Enlisted Performance Report.

27OCT05/ia

6 SEP 2005

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.)

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 the Department of Defense, Executive Services and Communications Directorate (0704-0004). 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 ORGANIZATION. 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)	<input type="checkbox"/> ARMY	<input type="checkbox"/> MARINE CORPS	<input type="checkbox"/> NAVY	<input checked="" type="checkbox"/> AIR FORCE	<input type="checkbox"/> COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE			d. SOCIAL SECURITY NUMBER	
	E-1/AB				

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 20041105	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
	<input type="checkbox"/> HONORABLE	<input checked="" type="checkbox"/> CHANGE TO HONORABLE
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 355 SECURITY POLICE SQ (ACC) DAVE MONTHAN	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)	<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
	<input type="checkbox"/> UNCHARACTERIZED	
	<input type="checkbox"/> 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.)
 MY DISCHARGE WAS INEQUITABLE DUE TO THE FACT THAT MY PRIOR YEARS OF HONORABLE SERVICE AND DUTY IN ENDURING FREEDOM, IRAQI FREEDOM, AND THE CLOSING DOWN OF PRINCE SULTAN AIR BASE ALONG WITH NORMAL DUTY HERE IN THE UNITED STATES HAS BEEN OVER LOOKED. MY HARD WORK AND GREAT EFFORT TO SERVE MY COUNTRY WAS ALL WIPED AWAY WITH ONE MISTAKE DURING OFF DUTY TIME.

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.)
 SEE ATTACHED DOCUMENTS

9. TYPE OF REVIEW REQUESTED (X one)

<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 (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
<input type="checkbox"/> 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.
<input type="checkbox"/> 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.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> 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 2005-00368
	20051113	

14. CONTINUATION OF ITEM 6, ISSUES (if applicable)
 TWO VOLUNTARY TOURS OVER SEAS IN THE PERSIAN GULF. ALONG WITH VOLUNTEERING TIME TO THE COMMUNITY.
 SEE ATTACHED: JOB PERFORMANCE REPORTS

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (if applicable)
 SEE ATTACHED DOCUMENTS

16. REMARKS (if applicable)
 SINCE MY DISCHARGE I HAVE LEARNED A LOT ABOUT THE ADULT WORLD. I HAVE MADE MANY CHANGES IN MY LIFE. I HAVE SET SOME GOALS FOR MYSELF, ONE IN WHICH DEALS WITH COLLEGE. IN THE YEAR 2006 I PLAN ON GOING TO COLLEGE TO GET A DEGREE IN PHYSICAL EDUCATION. I AM VERY INTERESTED WITH PHYSICAL EDUCATION AND HEALTH OF THE HUMAN BODY. BEFORE I SIGNED WITH THE AIR FORCE I WAS BEING HEAVILY RECRUITED BY D-1A COLLEGES FOR FOOTBALL. FOOTBALL HAS ALWAYS BEEN MY DREAM, IT HAS ALWAYS BEEN SOMETHING I HAVE BEEN GREAT AT. AFTER 9/11 INCIDENT I GAVE UP MY DREAM OF COLLEGE AND FOOTBALL TO SERVE MY COUNTRY. NOW I FEEL I HAVE NOTHING TO SHOW FOR THE LAST FEW YEARS OF MY LIFE. DUE TO THE GENERAL DISCHARGE I HAVE RECEIVED, IT HAS BEEN VERY DIFFICULT FINDING A GOOD JOB ALONG WITH GETTING INTO COLLEGE DUE TO LACK OF FINANCES. MOREOVER, I HAVE MADE MISTAKES ALL THROUGH OUT MY LEARNING LIFE. I WILL CONTINUE LEARNING IN THIS LIFE HOPEFULLY WITHOUT MISTAKES. WE ALL MAKE MISTAKES THOUGH. I ASK THAT YOU FIND IT IN YOUR HEARTS TO SEE AND UNDERSTAND THAT I AM ONLY HUMAN JUST LIKE YOU, WITH HUMAN LIFE SITUATIONS AND HUMAN PROBLEMS. WE ALL MAKE MISTAKES AND FAIL ONCE IN A WHILE. SOMETHING I HAVE LEARNED IS TO FAIL FORWARD AND TO MAKE BETTER DECISIONS.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

<p align="center">ARMY</p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p>	<p align="center">NAVY AND MARINE CORPS</p> <p>Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>
<p align="center">AIR FORCE</p> <p>Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p align="center">COAST GUARD</p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p>



DEPARTMENT OF THE AIR FORCE
 355TH SECURITY FORCES SQUADRON (ACC)
 DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

26 OCT 2004

MEMORANDUM FOR AB: _____

FROM: 355 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge.

2. My reasons for this action are:

a. Between on or about 30 Nov 02 and 1 Dec 02, you were derelict in the performance of your duties when you failed to refrain from drinking and possessing alcoholic beverages while under the age of 21 and drove a vehicle while drunk. As a result, you received punishment under Article 15, UCMJ, on 27 Dec 02 (Tab A).

b. On or about 29 Aug 04, you operated a vehicle in a drunk and reckless manner, almost hitting A1C: _____; and driving without your headlights on. As a result, you received punishment under Article 15, UCMJ, on 21 Sep 04 (Tab B).

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 higher authority will decide whether you will be discharged or retained in the United States 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, bonus, or education assistance funds may be subject to recoupment. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

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: _____ at AFLSA/ADC, 228-5664, on 26 OCT 2004, at 1430 hours. 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 by 29 OCT 2004 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

Global Power For America

6. If you fail to consult counsel or to submit statements in 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 PHA Clinic, 355th Medical Group on 27 OCT 04, at 0930 hours for the examination.
8. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, building 2300, room 116, at 0900 hours on 27 OCT 04 for the outprocessing briefing. If you have questions, please call 228-5326.
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 at the Area Defense Counsel's office.
10. Execute the attached acknowledgment and return it to me immediately.

[Redacted Signature Box]

Commander

Attachments:

1. Supporting Documents:
 - a. AF Form 3070, Record of Nonjudicial Punishment, 27 Dec 02 (3 pgs), and Supporting Evidence (7 pgs)
 - b. AF Form 3070, Record of Nonjudicial Punishment, 21 Sep 04, (3 pgs), Member Response, 15 Sep 04 (1 pg), and Supporting Evidence (23 pgs)
2. Receipt of Notification Memorandum