

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)				GRADE		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	UOTHC	OTHER	DENY
								X**
								X**
								X**
								X**
								X**
ISSUES A94.53		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				
HEARING DATE 22 Jun 2011		CASE NUMBER FD-2009-00725		TAPE RECORDING OF PERSONAL APPEARANCE HEARING				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.								
<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> <p>*CHANGE REASON AND AUTHORITY +CHANGE RE CODE</p>								
INDORSEMENT				DATE: 6/22/2011				
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 20762-7001				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2009-00725

GENERAL: The applicant appeals for upgrade of discharge to honorable and 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 and requests that the review be completed based on the available service record.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDING: The Board denies the upgrade of the 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:

Applicant submitted no issues regarding the inequity or impropriety of his discharge. The applicant does submit that he wants to be able to enlist in the Pennsylvania Air National Guard and after fourteen years since the discharge he realizes what the military meant to him. The record indicates the applicant received a civilian conviction, one Article 15, one Letter of Reprimand, and a Record of Individual Counseling. His misconduct included driving while intoxicated (DWI), failed to report to place of duty, and violation of base driving privileges. The Board opined that through these administrative actions, the applicant had ample opportunities to change his behavior. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board reviewed the entire record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge.

CONCLUSION: 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 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 and determines the discharge should remain unchanged.

Attachment:
Examiner's Brief

**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.)

OMB No. 0704-0004
OMB approval expires
Oct 31, 2009

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 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	
			E3		
e. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON NAMED IN ITEM 11 (Forward notification of any change in address.)			f. TELEPHONE NUMBER (Include Area Code)		
			h. FAX NUMBER (Include Area Code)		

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	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	BAD CONDUCT (Special court-martial only)		<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION:	
	<input type="checkbox"/> UNCHARACTERIZED		<input checked="" type="checkbox"/> RE Code	
	<input type="checkbox"/> OTHER (Explain)			

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 13. See instructions on Page 3.)

I REQUEST THAT MY RE-ENTRY CODE BE CHANGED TO ALLOW MYSELF TO ENLIST INTO THE PA AIR NATIONAL GUARD.

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 14. If military documents or medical records are relevant to your case, please send copies.)

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 12.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, and relationship by marking a box below.

☐ SPOUSE ☐ WIDOW ☐ WIDOWER ☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ OTHER (Specify)

12. 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)

2009 11 23

CASE NUMBER
(Do not write in this space.)

FD2009-06725

13. CONTINUATION OF ITEM 6, ISSUES (If applicable)

14. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

15. REMARKS (If applicable)

I FEEL THAT AFTER 14 YEARS, I HAVE REALIZED WHAT THE MILITARY MEANT TO ME. I WOULD LIKE FOR MY RE-ENTRY CODE BE UPGRADED TO REFLECT MY ENLISTMENT INTO THE AIR NATIONAL GUARD IS POSSIBLE.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (CG-122)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

**DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD**

AFDRB BRIEF									
NAME (Last, First, MI):				SSN:		DOCKET # FD-2009-00725		COMPONENT: USAF	
TYPE OF DISCHARGE: GENERAL		DISCHARGE FROM: CASTLE AFB, CA		DISCHARGE DATE: 01 FEB 95		APPEALS FOR: UPGRADE DISCHARGE TO HONORABLE, CHANGE REASON FOR DISCHARGE & RE CODE			
DOB/ ENLMT AGE: 21 JUN 71 18		DISCH AGE: 23		FORMER: A1C	HGH: SRA	B. CURRENT DOR: 12 JAN 95		C. TIME LOST: NONE	
AFSC: 2A613A - AEROSPACE PROPULSION APPRENTICE, JET ENGINE				DEP DT: 09 AUG 89		ASVAB SCORES:			
D. ART 15 / VAC: ART 15: 1		D. LOR, LOA, RIC, LOC: LOR: 1 / RIC: 1		E. SCM / SPCM / GCM: NONE		ADDITIONAL: (IE. CIVIL CONV, CDC) CIVIL CON: 1			
F. RECORD OF SERVICE (EPR/ OPR, PAST TO PRESENT) :									
06 MAR 92 - 05 MAR 93 CASTLE AFB 4 (ANNUAL)									
06 MAR 93 - 05 MAR 94 CASTLE AFB 5 (ANNUAL)									
06 MAR 94 - 31 JUL 94 CASTLE AFB 3 (DBH) REFERRAL									
01 AUG 94 - 12 JAN 95 CASTLE AFB 2 (DBH) REFERRAL									
G. AWARDS & DECS: AFOUA, AFGCM, NDSM, AFOSLTR, AFLSAR, AFTR									
EAD: 03 NOV 89		DAS: 06 MAY 92		TMS: 5 YRS 5 MOS 24 DAS			TAMS: 5 YRS 2 MOS 29 DAS		
APPLN (DD FORM 293) DTD: 23 NOV 09		DT/ INITIALS: 25MAR11/CM		NPA/PA: NPA			BOARD REGION:		
RECORDS :	MPR: YES	ARMS: NO	STR: NO	ISSUES: YES			ATTACHMENTS: NO		
AUTH FOR DISCHARGE : AFI 36- 3208, PARA 5.49 (MISCONDUCT: MINOR DISCIPLINARY INFRACTIONS)									
ART 15; VAC; SCM; SPMC; GCM; ADDITIONAL:									
CIVIL CON: 23 JUL 94 - DWI. LOR: 26 JUL 94 - DWI. RIC: 16 NOV 94 - FAILED TO REPORT TO PLACE OF DUTY. ART 15: 03 JAN 95 - (ART 92) VIOLATED BASE DRIVING PRIVILEGES.									
EXAMINER'S NOTE:									
NOTES:									

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

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3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)	<input checked="" type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION:
93 RD MS CASTLE AFB CA	<input type="checkbox"/> UNCHARACTERIZED	RE Code
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550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (CG-122)
2100 Second Street, S.W. Room 5500
Washington, DC 20593



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 93D BOMB WING (ACC)
CASTLE AIR FORCE BASE, CALIFORNIA

20 January 1995

MEMORANDUM FOR A1C

, 93 MS

FROM: 93 MS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct, specifically, Minor Disciplinary Infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 23 July 1994, at or near the city of Atwater, CA, you operated a vehicle under the influence of alcohol, with a BAT of .28. Your driving under the influence case was handled in civilian court in which you were sentenced to 36 months probation, \$1450 fine, and four days in jail. In addition to the civilian action you received a Letter of Reprimand, you were placed on the control roster, and an Unfavorable Information File was established on you. You were also released from Airman Leadership School, you were entered into and completed Track III of the substance abuse program, and your base driving privileges were suspended for one year as a result of your driving under the influence (see Tab NL1a).

b. On 8 and 16 November 1994, you failed to report to your appointed place of duty. For your failure to go, you were counseled (see Tab NL1b).

c. On 3 January 1995, you violated the suspension (see a. above), by driving a privately owned vehicle on Castle AFB, CA. For your misconduct you received an Article 15 with reduction in grade from SrA to A1C (see Tab NL1c).

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 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.

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 building 265 on 23 January 1995 at 0900 hours. You may consult civilian counsel at your own expense.

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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 25 January 1995 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 were scheduled for a medical examination. You reported to the 93d Medical Group at 0700 hours on 19 January 1995 for the examination.

8. 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 your unit orderly room.

Major, USAF
Commander, 93 MS

Attachments:

NL1. Supporting Documents

NL1a. LOR, dtd 26 Jul 94; UIF Action, dtd 26 Jul 94
93 MSS/MSN Ltr, dtd 25 Jul 94; Incident
Report #CAAF00500; Substance Abuse Disposition Form, dtd 22 Aug 94

NL1b. Counseling Feedback Ltrs, dtd 21 & 22 Nov 94

NL1c. Article 15, dtd 17 Jan 95 w/atchs

NL2. Airman's Acknowledgment



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 93D BOMB WING (ACC)
CASTLE AIR FORCE BASE, CALIFORNIA

Date: 26 January 1995

MEMORANDUM FOR 93 BW/CC

FROM: JA (Major)

SUBJECT: Legal Review of AFI 36-3208 Discharge Action (A1C
FR 93 MS)

1. I have reviewed the attached discharge action on A1C and find it legally sufficient. The commander recommends discharge for Misconduct, specifically, Minor Disciplinary Infractions. This case meets the criteria for discharge under AFI 36-3208, paragraph 5.49 and is supported by a preponderance of the evidence. The commander recommends a general discharge.

2. DISCUSSION:

a. The Respondent's conduct during this enlistment reflects a pattern of misconduct consisting of minor disciplinary infractions which subject him to discharge under AFI 36-3208, paragraph 5.49. The Respondent's misconduct during this enlistment consists of driving under the influence, failure to report to his appointed place on no less than two occasions, and violating an order not to drive on Castle AFB. For his misconduct, the Respondent was counseled, received a Letter of Reprimand, and was placed on the control roster. In addition, an Unfavorable Information File was established on Respondent and he has received an Article 15 with punishment of reduction in grade. The Respondent's behavior can no longer be tolerated by the Air Force, and the Respondent should be discharged.

b. The Respondent's service should be characterized as general. The significant negative aspects of his conduct outweigh the positive aspects of his record. The Respondent's service is not otherwise so meritorious that an honorable discharge is appropriate. On the other hand, the Respondent's misconduct is not so severe as to warrant an under other than honorable conditions characterization.

c. Probation and rehabilitation are not appropriate in this case. The Respondent's commander has already used most available rehabilitative tools without effect.

d. The Respondent elected to submit a statement after consulting counsel. He does not feel that an involuntary discharge is right and requests to voluntarily separate from the Air Force with an Honorable Discharge.

3. ERRORS AND IRREGULARITIES: None.

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4. OPTIONS OF THE SPECIAL COURT-MARTIAL CONVENING AUTHORITY.

You may:

- a. Retain the Respondent in the Air Force;
- b. Recommend to the General Court-Martial Convening Authority that the Respondent be discharged because of Misconduct, for the reasons alleged by the commander, with an honorable discharge, with or without probation and rehabilitation;
- c. Discharge the Respondent because of Misconduct, for the reasons alleged by the commander, with a general discharge, with or without probation and rehabilitation, or;
- d. Direct the unit to reinstate the action to be processed under board hearing procedures if you determine an under other than honorable conditions discharge may be warranted.

5. RECOMMENDATION: I concur with the commander's recommendation that the Respondent be discharged with a general discharge, without probation and rehabilitation.


Staff Judge Advocate