

		PERSONAL APPEARANCE	X RECORD REVIEW				
ISSUES A01.00, A95.00		NAME OF COUNSEL AND OR ORGANIZATION 	ADDRESS AND OR ORGANIZATION OF COUNSEL 				
YES 	NO X						
MEMBERS SITTING			HON	GEN	VOYTC	OTHER	DENY
[REDACTED]							X
[REDACTED]							X
[REDACTED]							X
[REDACTED]							X
[REDACTED]							X
INDEX NUMBER A67.10		HEARING DATE 01 03 07		CASE NUMBER FD01-00021			1 ORDER APPOINTING THE BOARD
							2 APPLICATION FOR ~ V I E W D F 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 HEARING
REMARKS Case heard at Washngtdn, 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.							
SIGNATURE OF RECORDER 				SIGNATURE OF BOARD PRESIDENT 			
TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002			

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 the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The DRB finds that the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none. The records indicated the applicant received two Article 15s, a Vacation of Suspended Non-Judicial Punishment, three Letters of Reprimand, a Letter of Counseling and a Letter of Admonishment for misconduct. The misconduct included being late to her appointed place of duty on two occasions, and using the e-mail and internet on a government computer in an inappropriate manner on three occasions. 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)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/07/16 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 77/12/25. Enlmt Age: 19 5/12. Disch Age: 21 6/12. Educ: HS ~~DIPL.~~
AFQT: N/A. A-79, E-52, G-39, M-21. PAFSC: 3S031 - Personnel Apprentice.
DAS: 98/02/05.

b. Prior Sv: AFRes 97/05/30 - 97/10/21 (4 months 22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 97/10/22 for 4 yrs. Svd: 1 Yrs 8 Mo 25 Das, all AMS.

b. Grade Status: AB - 99/01/14 (Article 15, Vacation, 99/04/19)
AMN - Unknown

c. Time Lost: none.

d. Art 15's: (1) 99/05/05, Edwards AFB; CA - Article 92. You, having knowledge of a lawful order issued by LTC ----- to cease use of the interns and e-mail on your government computer, or any government computer, an order which it was your duty to obey, did, between o/a 7 Apr 99 and o/a 8 Apr 99, fail to obey the same by wrongfully gaining access to and using the internet at your duty section. Forfeiture of \$50.00 pay per month for 2 months, 60 days restriction, and a reprimand. (No appeal)
(No mitigation)

(2) 99/04/19, Vacation, Edwards AFB, CA - Article 92. You, having knowledge of a lawful order issued by LTC ----- to cease use of the internet and e-mail on your government computer, or any government computer, an order which it was your duty to obey, did, between o/a 7 Apr 99 and 8 Apr 99, fail to obey the same by wrongfully gaining access to and using the internet at your duty section. Rdn to AB. (No appeal)
(No mitigation)

(3) 99/01/14, Edwards AFB, CA - Article 92. You, having knowledge of a lawful order issued by MSgt ----- to cease personal correspondence with anyone on your

government computer, or any government computer and to restrict your use of E-mail and other programs on all computers to only those actions necessary to perform your official duties, an order which it was your duty to obey, did, between o/a 28 Dec 98 and o/a 29 Dec 98, fail to obey the same by wrongfully sending personal e-mail on a government computer. Rdn to AB (susp til 12 Jul 99), and 25 days restriction. (No appeal)
(No mitigation)

e. Additional: LOR, 24 FEB 98 - Unauthorized phone calls.
RIC, 10 MAR 98 - Late for work.
LOR, 25 AUG 98 - Late for work.
LOR, 28 AUG 98 - Inappropriate use of computer.
LOA, 14 SEP 98 - Inappropriate use of computer.

f. CM: none.

g. Record of SV: none.
(Discharged from Edwards AFB)

h. Awards & Decs: AFTR, MPBOB.

i. Stmt of sv: TMS: (2) Yrs (1) Mos (17) Das
TAMS: (1) Yrs (8) Mos (25) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/11/13.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
none.

01/01/19/ia

MDO1-0000-1



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE FLIGHT TEST CENTER (AFMC)
EDWARDS AIR FORCE BASE, CALIFORNIA

JUN 04 1999

MEMORANDUM FOR 95 ABW/CC

FROM: AFFTC/JA
1 S Rosamond Blvd
Edwards AFB CA 93524-1038

SUBJECT: Final Review - Administrative Discharge Under AFI 36-3208, Para 5.49, AB (E-1)

1. **Background:** This discharge action is being processed against the respondent [redacted] MSS, for minor disciplinary infractions (AFI 36-3208, para 5.49). The package is legally sufficient subject to proper medical clearance. The respondent has acknowledged that military legal counsel has been made available to her and has consulted with counsel. (Atch 3).

2. **Analysis:** Enlisted members are subject to involuntary discharge for misconduct consisting of minor disciplinary infractions. Minor disciplinary infractions include the failure to comply with nonpunitive regulations or minor offenses under the UCMJ (AFI 36-3208, para 5.49). In the case under consideration, the respondent committed the following infractions:

a. From 2 Oct 98 thru 23 Dec 98, she made \$64.84 worth of personal long distance phone calls on a government telephone. For this she received a Letter of Reprimand, dated 24 Feb 98. (Atch 1.1);

b. On 6 Mar 98 and 10 Mar 98, she was late to her appointed place of duty. For this she received a Record of Individual Counseling, dated 10 Mar 98. (Atch 1.2);

c. On 21 Aug 98, she was 45 minutes late to her appointed place of duty. For this she received a Letter of Reprimand, dated 25 Aug 98. (Atch 1.3);

d. On 28 Aug 98, she used the e-mail and internet on a government computer in an inappropriate manner. For this she received a Letter of Reprimand, dated 28 Aug 98. (Atch 1.4);

e. On 9 Sep 98, she used the e-mail and internet on a government computer in an inappropriate manner. For this she received a Letter of Admonishment, dated 14 Sep 98. (Atch 1.5);

f. On 28 Dec 98 and 29 Dec 98, she used the e-mail and internet on a government computer in an inappropriate manner. For this she received an Article 15, dated 11 Feb 99. (Atch 1.6);
and

There is sufficient evidence to support discharge of the respondent in this case.

3. **Discussion of Respondent's Background:** On 22 Oct 97 the respondent joined the Air Force for 4 years. On 5 Feb 1998 she arrived here at Edwards AFB, California. She is authorized to wear Air Force Training Ribbon. Since arriving here at Edwards AFB the respondent has received two Article 15s, one Vacation Action (AF Form 366), one Letter of Admonishment, three Letters of Reprimand, and one Record of Individual Counseling.

4. **Discussion Respondent's Statement:** The respondent has acknowledged that military legal counsel has been made available to her and has consulted with counsel. The respondent has submitted statements. The respondent argues that her service deserves no less than an honorable conditions discharge. (Atch 3).

5. **Characterization of Discharge:** If you determine the respondent should be discharged, you must determine how to characterize the respondent's service during her current enlistment. The respondent's commander, Lt Col [redacted] recommends the respondent be discharged with a general discharge. According to AFI 36-3208, para 1.18.2, an airman's service should be characterized as Under Honorable Conditions (General) when significant negative aspects of the airman's conduct or duty performance outweigh positive aspects of the airman's military record. Further, when an airman is discharged for misconduct, an honorable discharge is only merited when an airman's record ". . . has been so meritorious that any other characterization would be clearly inappropriate." AFI 36-3208, Chapter 5, Section H, para 5.48.4. In this case the respondent's conduct warrants a general discharge.

6. **Probation and Rehabilitation:** Pursuant to AFI 36-3208, Chapter 7, the Probation and Rehabilitation (P&R) program provides an opportunity for an airman subject to involuntary separation to remain in the Air Force until their normal date of separation. Based on this program, execution of the approved discharge is conditionally suspended for no less than 6 months but not more than 12 months. This gives the member a chance to show that he or she is able to meet the Air Force Standards. The suspended discharge will be automatically canceled after completion of the period stated on the P&R notification, unless the suspension has been vacated, or action to vacate it has been initiated. In this case, the respondent's commander, Lt Col [redacted] recommends against offering the respondent P&R. I concur.

7. **95 ABW/CC Options:** As separation authority, you may:

- a. Retain the respondent; or
- b. Discharge the respondent with a general discharge for minor disciplinary infractions (AFI 36-3208, para 5.49), with or without P&R; or
- c. Recommend to HQ AFFTC/CC that the respondent be discharged with an honorable discharge for minor disciplinary infractions (AFI 36-3208, para 5.49), with or without P&R; or

7. **95 ABW/CC Options:** As separation authority, you may:

- a. Retain the respondent; or
- b. Discharge the respondent with a general discharge for minor disciplinary infractions (AFI 36-3208, para 5.49), with or without P&R; or
- c. Recommend to HQ AFFTC/CC that the respondent be discharged with an honorable discharge for minor disciplinary infractions (AFI 36-3208, para 5.49), with or without P&R; or
- d. Return the package to the unit for further processing if you determine that the discharge _____ should be characterized as Under Other Than Honorable Conditions.

8. **Recommendation:** The respondent's commander [REDACTED], recommends that the respondent be discharged with a general discharge. Based on the nature of the disciplinary infractions, I agree with the respondent's commander. I recommend the respondent be discharged for minor disciplinary infractions (AFI 36-3208, para 5.49), without probation and rehabilitation. If you concur, you may as 95 ABW/CC, sign the letter located at **Tab 1**.

[REDACTED]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 05TH AIR BASE WING (AFMC)
EDWARDS AIR FORCE BASE, CALIFORNIA

26 May 99

MEMORANDUM FOR [REDACTED]

FROM: 95 MSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, para 5.49. If my recommendation is approved, your discharge 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. From 2 Oct thru 23 Dec 98 you made \$68.84 worth of personal long distance phone calls on a government telephone, as evidence by a Letter of Reprimand, dated 24 Feb 98. (Atch 1.1).

b. On 6 Mar and 10 Mar 98 you were late to your appointed place of duty, as evidence by a Record of Individual Counseling, dated 10 Mar 98. (Atch 1.2).

c. On 21 Aug 98 you were 45 minutes late to your appointed place of duty, as evidence by a Letter of Reprimand. Dated 25 Aug 98. (Atch 1.3).

d. On 28 Aug 98 you used the e-mail and internet system on a government computer in an inappropriate manner, as evidence by a Letter of Reprimand, dated 28 Aug 98. (Atch 1.4).

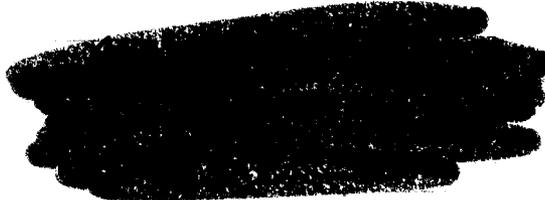
e. On 9 Sep 98 you used the e-mail system on a government computer in an inappropriate manner, as evidence by a Letter of Admonishment, dated 14 Sep 98. (Atch 1.5).

f. Between 28 Dec and 29 Dec 98 you used the e-mail system on a government computer in an inappropriate manner, as evidence by an Article 15, dated 11 Feb 99. (Atch 1.6).

g. On 7 Apr and 8 Apr 99 you, having knowledge of a lawful order issued [REDACTED] to cease use of the internet and e-mail system on any government computer failed to obey the same by wrongfully gaining access to and using the internet at your duty section, as evidence by a Vacation Action (AF Form 366), dated 3 May 99 and a Article 15, dated 6 May 99. (Atch 1.7).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial convening authority (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 [REDACTED] at Bldg 2670 on 28 May 99 at 1900. 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 1 June 99 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 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 the Physical Examination Section, Flight Surgeon's Office, Bldg 3925 at 0730 on 21 May 99 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 the Orderly Room.



Attachments:

1. Supporting documents:
 - 1.1 LOR, dtd 24 Feb 98
 - 1.2 ROC, dtd 10 Mar 98
 - 1.3 LOR, dtd 25 Aug 98
 - 1.4 LOR, dtd 28 Aug 98
 - 1.5 LOA, dtd 14 Sep 98
 - 1.6 Art 15, dtd 11 Feb 99
 - 1.7 AF Form 356, dtd 3 May 99, and a Art 15, dtd 6 May 99
 - 1.8 Other Derogatory Information not listed in the Notification Letter
2. Airman's receipt of notification memorandum