

TYPE		X RECORD REVIEW	
YES	NO	NONE	
	X		
MEMBERS SITTING		VOTE OF THE BOARD	
		HON	GEN
		X *	
		X *	
		X *	
ISSUES 94.08	INDEXNUMBER 67.50	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 HEARING
HEARING DATE 010320			
CASENUMBER FD01-00041			
REMARKS			
Case heard at Washington, D.C.			
* Change of reason for discharge to: Secretarial Authority. SPD:JFF			
Advise applicant of the decision of the Board			
SIGNATURE OF RECORDER		SIGNATURE OF BOARD PRESIDENT	
[Signature]		[Signature]	
TO:		FROM:	
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742		SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002	

## AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-01-00041

**GENERAL:** The applicant appeals for an upgrade of his discharge to Honorable and change of reason for discharge.

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:** The Board grants the requested relief.

The Board finds that neither evidence of record nor that provided by the applicant substantiates an impropriety, which would justify upgrade of or change of reason for discharge. However, based upon the record and evidence provided by the applicant, the Board finds that the applicant's character of and reason for discharge are inequitable.

The applicant's issue is listed in the attached brief.

**Issue.** After a thorough consideration of the information provided by the applicant and contained in the records, the Discharge Review Board concluded there was sufficient mitigation to substantiate upgrading and changing the reason for the discharge. Specifically, the Board found the characterization was too harsh. Although the DRB did not condone the misconduct of the applicant, an Honorable discharge was deemed appropriate and equitable. The Board also found that there is a similar basis for a change of reason for the discharge.

**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.

However, in view of the forgoing findings, the Board concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable/Secretarial Authority under the provisions of 10 USC 1553.

**Attachment:**  
**Examiner's Brief**

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

(Former SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 97/05/13 UP AFI 36-3209, para 3.21.2 (Pattern of Misconduct - Failure to Pay Just Debts). Appeals for Honorable Disch and to Change the Reason and Authority for Disch.

2. **BACKGROUND:**

a. DOB: 70/03/27. Enlmt Age: 17 9/12. Disch Age: 27 1/12. Educ: HS DIPL. AFQT: N/A. A-85, E-61, G-57, M-49. PAFSC: 3P071 - Security Police Technician. DAS: 93/05/22.

b. Prior Sv: Enld USAFR as A1C 88/01/11 for 6 yrs. Svd: 5 yrs 9 mos 5 days (Active & Inactive). SrA - 90/03/01. SSgt - 91/09/01. EPRs: None.

3. **SERVICE UNDER REVIEW:**

a. Reenld USAFR as SSGT 93/10/16 for 6 yrs. Svd: 3 Yrs 6 Mo 28 Das, (Active & Inactive).

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: none.

e. Additional: LOC, 10 JUN 95 - Tardy.  
LOC, 06 OCT 96 - Failure to pay just debt.  
LOR, 07 DEC 96 - Failure to pay just debt.  
LOR, 04 JAN 97 - Failure to pay just debt.  
MFR, 04 JAN 97 - Failure to pay just debt.

f. CM: none.

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

h. Awards & Decs: AFOUA, AFOEA, AFRMSM, NDSM, AFLSAR, SAEMR, AFTR.

i. Stmt of Sv: TMS: (9) Yrs (4) Mos (3) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/01/23.  
(Change Discharge to Honorable and Change the Reason and Authority for Discharge)

Issue 1: The General Discharge and ineligible for reenlistment status were

inequitable when considered in light of the isolated nature of the offense (credit card debt incurred during two close in time tours of duty), an otherwise exemplary record in over eight years of military service, voluntary payment of the credit card debt after discharge, and an admirable record of employment and service to my community as a law enforcement officer.

ATCH

1. Applicant's Letter to the Discharge Review Board.
2. Reserve Order A-121, 28 April 97.
3. Letter of Indebtedness.
4. Three Letters of Recommendation.

01/02/07/ia

DATE: 23 January 2001

TO: Air Force Discharge Review Board

SUBJECT: Request for Upgrade of Discharge and Change of Reenlistment Eligibility Code

My name is [REDACTED] and I am submitting this letter and the attached documentation with the hope that this Board will consider my military and civilian record and find that they warrant an upgrade of my discharge from the Air Force Reserve to "Honorable," change the reason for discharge to "Convenience of the Government," and change my reenlistment eligibility code to RE-1 (eligible for reenlistment).

I was a former member of the 917 SPS at Barksdale Air Force Base, Louisiana. However, I was discharged effective 13 May 1997 pursuant to AFI 36-3209 (Misconduct, A Pattern of Misconduct, Failure to Pay Just Debt). My service was characterized as General (Under Honorable Conditions). My reenlistment eligibility status was listed as ineligible. The sole basis for my discharge was a debt I had incurred on my military credit card during TDYs the prior summer. At the time I was discharged I mistakenly believed that once the debt was paid, that would remove the stigma of my discharge. However, in December 1997 I learned that was not the case.

I would like to explain the circumstances surrounding my discharge. This is not intended to be an excuse for my actions. The debt that I failed to timely pay resulted from charges on my military credit card [REDACTED] during TDYs the Summer of 1996. The first TDY was to Korea. This was not an annual tour and the money I received from my voucher covered the majority of my expenses. My next TDY was to Japan and this was considered my annual tour. As such, I did not receive an amount of pay similar to my Korean tour. In addition, I had an unusually high phone bill calling my wife back in Shreveport. The TDYs together resulted in a significant shortage between my credit card bill and what I received from the Air Force as reimbursement.

In order to resolve and pay the debt to [REDACTED] I discussed the matter with my ART. He said that I could work man days to earn extra money to pay off my debt. The extra money would be mailed directly to [REDACTED]. We did this for one set of orders. The second time, I was there for the first day and was then told that since I had a debt with American Express I could get no more man days.

During this time period I had just left employment with the [REDACTED] Department and joined the [REDACTED] Police Department. This resulted in a \$600.00 per month decrease in pay for my first year with SPD since I would not receive the State Supplemental Pay that first year.

The loss of man days was the first corrective action taken against me and a counseling in December was the second step. Then in January 1997 at my UTA I was handed the papers to discharge me. There was little that I could do at that time. However, even though discharged I eventually was able to pay [REDACTED] that same year. Enclosure 2 is a confirmation letter from [REDACTED] that effect.

I believe if you will review my Air Force record you will find that I did my job well and had no disciplinary actions until my credit card problem. Even though discharged, I paid [REDACTED] as soon as possible. I have continued my employment with the [REDACTED] Police Department and tried to do the best job possible. Enclosure 3 includes statements from my supervisors in the Department. [REDACTED] is also a Lieutenant in the [REDACTED] Police Department. As such he is in the unique position of knowing me and my work performance as both a member of the Air Force Reserves and as an officer with the [REDACTED] Police Department.

Thank you for your consideration.

Respectfully Submitted

[REDACTED]

Enclosures:

1. Reserve Order A-121
2. [REDACTED] ltr, October 3, 1997
3. References
  - a. [REDACTED]
  - b. [REDACTED]
  - c. [REDACTED]

\*

**DEPARTMENT OF THE AIR FORCE**  
**AIR FORCE RESERVE**

25 February 1997

MEMORANDUM FOR 917 WG/CC

FROM: 917 WG/JA

SUBJ: Administrative Discharge Review - [REDACTED] 917 SPS

1. I have reviewed the accompanying administrative discharge case file and find it legally sufficient to support the discharge of [REDACTED] under the provisions of AFI 36-3209, paragraph 3.21.2, pattern of misconduct (failure to pay just debts). No irregularities affecting any substantial rights of the member have been noted.

2. AFI 36-3209, paragraph 3.21.2 provides that a member may be discharged due to a pattern of misconduct consisting of an established pattern showing failure to pay just debts.

3. The evidence of record discloses that [REDACTED] was issued an [REDACTED]. He presumably consented to be bound by the terms of the [REDACTED] agreement governing use of the [REDACTED] which terms include making payment in full each month. The squadron commander briefed the member at that time of his responsibilities. Monthly aging reports for September 1996 through November 1996 show that [REDACTED] account balance of \$1,269 was in arrears by 60 days and 90 days in September and October, respectively. He made payments of \$275 in November, but had a balance of \$994 which was 90 days in arrears at the end of November. The squadron commander counseled the member verbally in September 1996 and in writing on 6 October 1996 that his account **was** in arrears and that he had **an** obligation to pay the account in full. When the member failed to pay the balance due and was over 90 days in arrears, the commander issued letters of reprimand on 7 December 1996 and 4 January 1997 informing the member of the continuing violation and directing him to pay the debt in a timely fashion. The final statement of account shows that as of 27 December the account balance was \$996. This indicates that the member made no payments after the 16 November payment. In sum, the evidence shows a continuing pattern of failure to pay just debts.

4. Administrative discharge actions are governed by the preponderance of the evidence and not by the more rigorous "beyond a reasonable doubt" standard required of trials by court-martial. The evidence of record appears to be admissible in an administrative proceeding. The preponderance of the evidence clearly supports the allegation that the member has engaged in misconduct evidenced by a pattern of failing to pay just debts over a period of at least four months, even though counseled and reprimanded for his improper conduct.

5. The service of a member who is separated due to a pattern of misconduct may be characterized as honorable, general (under honorable conditions) or under other than honorable

conditions. [REDACTED] records indicate he has 8 years and 10 months of prior active service. He joined the 917 SPS in May 1993. He has no convictions by court-martial and no Article 15, UCMJ, actions. The file indicates he was tardy twice, for which he was counseled. There is no other derogatory data other than the referenced letters of counseling and reprimand for non-payment of debt. The file contains no EPRs. The member has no awards showing personal accomplishment. These factors support the squadron commander's recommendation that SSgt [REDACTED] service be characterized as general (under honorable conditions).

6. I recommend administrative action be initiated against SSgt [REDACTED] as proposed by his squadron commander and that the case file be forwarded to HQ AFRES for further action..

[REDACTED]  
Staff Judge Advocate



## DEPARTMENT OF THE AIR FORCE

AIR FORCE RESERVE

MEMORANDUM FOR CV

17 APR 1997

FROM: JA

**SUBJECT:** Legal Review, Administrative Separation, SSgt [REDACTED]

1. I have reviewed SSgt [REDACTED] case file. The evidence is legally sufficient to separate him from the Air Force Reserve.
2. SSgt [REDACTED] is a Security Police Technician assigned to the 917th Security Police Squadron, Barksdale AFB LA. He has eight years of satisfactory service. He is being separated for Misconduct, a Pattern of Misconduct, Failure to Pay a Just Debt, pursuant to AFI 36-3209, paragraph 3.21.2. HQ AFRC/DP sent him a Letter of Notification (LON) on 21 Mar 97. On 27 Mar 97, he acknowledged receipt but failed to make an election of rights. His failure to do so operates as a waiver of his right to a discharge board.
3. The evidence in support of separation shows that on 7 Dec 96 and on 4 Jan 97 he **wrongfully** failed to pay the balance due of \$994 on his [REDACTED] card account. He has two letters of reprimand and a letter of counseling documenting the unit's effort to rehabilitate him. In addition, he has been counseled on two occasions about being late for work.
4. The evidence provided by the unit is undisputed and sufficient to establish a factual basis for discharge. AFI 36-3209. The evidence also shows a long history of warnings and counselings directed at changing his behavior. The efforts to change his behavior have been unsuccessful. Because he was given an opportunity to change and failed to do so, separation is appropriate.
5. The commander recommended a General Discharge. The misconduct in this case is not particularly egregious. The two incidents of failure to pay are for the same unpaid debt, rather than two distinct debts. Because there are other factors that are typically outside the evidence in the record, such as the member's bearing and behavior, which figure into the commander's decision to recommend a particular characterization of service, the commander's assessment is generally fair and accurate. A review of AFI 36-3209, paragraph 3.21. and Attachment 2, supports the commander's recommendation for a General Discharge.
6. As the separation authority, you may separate SSgt [REDACTED] with an Honorable or a General Discharge. You may however, decide to **retain him** if you believe the

evidence is insufficient to support separation. Finally, you may recommend that he be processed for an Under Other Than Honorable Conditions (UOTHC) Discharge.

7. RECOMMENDATION: Separate SSgt [REDACTED] with a General Discharge.

[REDACTED]

Chief, Administrative Law

Attachment:  
Case file



## DEPARTMENT OF THE AIR FORCE

AIR FORCE RESERVE

21 MAR 1997

## MEMORANDUM FOR [REDACTED]

FROM: HQ AFRC/DPM  
 155 2nd St.  
 Robins AFB GA 31098-1635

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum, separation action is being initiated against **you** for misconduct, a pattern of misconduct, failure to pay just debt. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.21.2. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions) and Under Other Than Honorable Conditions. The type of separation recommended in your case is a General (Under Honorable Conditions) Discharge.
- 2. Within **24** hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.
3. The following is a summary of your rights:
  - a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no **cost** to **you**. **You may also** consult with civilian legal counsel of your choice, but at your own expense. [REDACTED], a Judge Advocate who is qualified under Article 27(B)(1), UCMJ, has been designated to represent you in connection with this separation action. Her mailing address is HQ AFRC/JAS, 155 2nd Street, Robins AFB GA 31098-1635. Her phone numbers are [REDACTED].
  - b. **You** have the right to submit pertinent statements and/or documents in your behalf which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 2nd Street, Robins AFB GA 31098-1635.

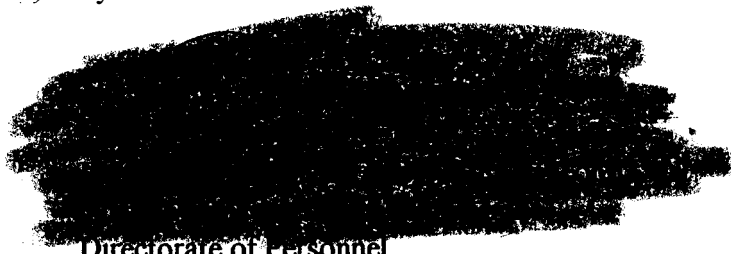
c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 2nd Street, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, ~~you may~~ request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. Information regarding an administrative discharge board is provided at Attachment 7.

5. You are not eligible to apply for transfer to the Retired Reserve.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes are attached (Atch 8) for your convenience.



Directorate of Personnel

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/  
Supporting Documentation
3. Acknowledgment of Receipt
4. Selection of Rights
5. Request for Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Envelopes (2)

cc:

HQ AFRC/JAS

917 MSS/DPMAR wo Attachments