

TYPE		PERSONAL APPEARANCE	X RECORD REVIEW				
NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL					
YES	NO						
	X						
MEMBERS SITTING		HON	GEN	UOTHC	OTHER	DENY	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
ISSUES	INDEX NUMBER	1 ORDER APPOINTING THE BOARD					
A91.07	A67.10	2 APPLICATION FOR REVIEW OF DISCHARGE					
		3 LETTER OF NOTIFICATION					
HEARING DATE	CASE NUMBER	4 BRIEF OF PERSONNEL FILE					
01 03 01	FDOI -00044	COUNSEL'S RELEASE TO THE BOARD					
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE					
		TAPE RECORDING OF PERSONAL APPEARANCE HEARING					
REMARKS							
Case heard at Andrews AFB MD.							
Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.							
SIGNATURE OF COUNSEL			SIGNATURE OF BOARD PRESIDENT				
[REDACTED]			[REDACTED]				
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-01-00044

**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 board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

The applicant's issues are listed in the attached brief.

Issues 1, 2, & 3 are similar in nature all dealing with post-service, and will be addressed jointly. The applicant contends that although tardiness was an issue in the military in is not a problem in the civilian work force. He continues to be a law-abiding citizen and enjoyed serving his country and would do it again if called upon to do so. The Board reviewed the record and concluded the conduct for which applicant was discharged was a significant departure from the conduct expected of all military members. The applicant received three Letters of Counseling, two for failing to report to his place of duty and for guard mount, and one for a uniform violation. He received three Letters of Reprimand, one for failing to report to his duty section, one for leaving his weapon unattended and one for being absent without leave. The applicant also received an Article 15 for failing to report to his place of duty. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The many offenses of the applicant, although minor in nature when analyzed individually, amounted to an overall serious problem that could not be tolerated. The Board concluded that the character and reason for discharge were appropriate due to his misconduct.

The Board found no evidence of impropriety or inequity in this case upon which to base an upgrade of 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.

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 AMN)

**1. MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 96/10/10 UP AFI 36-3208, para 5.49 (Misconduct - Disciplinary Infractions). Appeals for Honorable Disch.

**2. BACKGROUND:**

a. DOB: 75/08/28. Enlmt Age: 18 2/12. Disch Age: 21 1/12. Educ: HS DIP'L. AFQT: N/A. A-60, E-56, G-44, M-59. PAFSC: 3P032A - Law Enforcement Military Working Dog Apprentice. DAS: 95/06/16.

b. Prior Sv: AFRes 93/11/05 - 94/10/11 (11 months 7 days) (Inactive).

**3. SERVICE UNDER REVIEW:**

a. Enld as AB 94/10/12 for 4 yrs. Svd: 1 Yrs 11 Mo 29 Das, all AMS.

b. Grade Status: AMN - 96/09/18 (Article 15, 96/09/18)  
A1C - 96/02/12

c. Time Lost: none.

d. Art 15's: (1) 96/09/18, Edwards AFB, CA - Article 86. You, did, w/o authority, fail to go at the time prescribed to your appointed place of duty. Rdn to Amn, 30 days restriction, and 20 days extra duty. (No appeal) (No mitigation) \ --

(2) 96/08/09, Edwards AFB, CA - Article 86. You, did, o/a 25 Jul '96, w/o authority, fail to go at the time prescribed to your appointed place of duty. Seven days restriction, and 7 days extra duty. (No appeal) (No mitigation)

e. Additional: LOC, 03 JUL 95 - Failure to go.  
LOR, 21 AUG 95 - Failure to go.  
LOC, UNDATED - Violation of AFI 36-2903.  
LOR, 30 JAN 96 - Dereliction of duty.  
LOR, 27 MAR 96 - Failure to go.  
LOC, 16 JUL 96 - Failure to go.  
LOC, 25 JUL 96 - Failure to go.  
MFR, 29 AUG 96 - Dereliction go duty.

f. CM: none.

g. Record of SV: 94/10/12 96/06/11 Edwards AFB 3 (Initial)  
(Discharged from Edwards AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (11) Mos (6) Das  
TAMS: (1) Yrs (11) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/12/05.  
(Change Discharge to Honorable)

Issue 1: Tardiness to work was an issue in the Armed Forces. No longer is that a problem in the work force.

Issue 2: While in the Armed Forces I was a Law Enforcement Official, I carried that into duties on the outside. Remaining a law abiding citizen.

Issue 3: I plan to live my life to the fullest extent and enjoyed serving time for my country, and if the time cam where I had to do it again I would.

ATCH  
none.

01/02/09/ia



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

MEMORANDUM FOR 95 ABW/CC

27 SEP 1996

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

SUBJECT: Final Review - Administrative Discharge Under AFI 36-3208, Paragraph 5.49,  
[REDACTED]

1. **Background:** This discharge action is being processed against the respondent, Amn [REDACTED], 95 SPS, 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 him and has consulted with counsel. He has submitted statements for your consideration (see Tab 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 has committed the following infractions:

- a. On or about 03 July 1995, without authority, he failed to go at the time prescribed to his appointed place of duty. For this, he received a Letter of Counseling (Atch 1.1);
- b. On or about 15 August 1995, without authority, he failed to go at the time prescribed to his appointed place of duty. For this, he received a Letter of Reprimand (Atch 1.2);
- c. On or about 14 November 1995, he violated a lawfull instruction, AFI 36-2903, by reporting to work unshaven. For this, he received his second Letter of Counseling (Atch 1.3);
- d. On or about 2 January 1996, he was derelict in the performance of his assigned duty in that he left a weapon unattended, resulting in the inadvertent discharge of that weapon. For this, he received his second Letter of Reprimand (Atch 1.4);
- e. On or about 27 March 1996, without authority, he failed to go at the time prescribed to his appointed place of duty. For this, he received his third Letter of Reprimand (Atch 1.5);
- f. On or about 16 July 1996, without authority, he failed to go at the time prescribed to his appointed place of duty. For this, he received his third Letter of Counseling (Atch 1.6);
- g. On or about 25 July 1996, without authority, he failed to go at the time prescribed to his appointed place of duty. For this, he received his fourth Letter of Counseling (Atch 1.7);

h. On 21 August 1996, he failed to perform his assigned duty in that he failed to conduct Base Entry Point Checks (Atch 1.8); and

i. On or about 1 September 1996, without authority, he failed to go at the time prescribed to his appointed place of duty. For this, he received an Article 15, imposing a reduction in grade from A1C to Amn with a new date of rank of 18 Sep 96, 30 days restriction to Edwards AFB, and 20 days extra duty. (Atch 1.9).

A preponderance of the evidence indicates the respondent has engaged in minor disciplinary infractions.

3. **Respondent's Statement**: The respondent has submitted a statement for your consideration. His statement begins with a description of his life prior to entering the Air Force and covers his plan to continue his education upon discharge. Further, he briefly describes why he should receive an honorable discharge. (Atch 3).

4. **Characterization of Discharge**: If you determine the respondent should be discharged, you must determine how to characterize the respondent's service during his current enlistment. The respondent's commander, [REDACTED] recommended the respondent be discharged with a general discharge. According to AFI 36-3208, paragraph 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 airman's record ". . . has been so meritorious that any other characterization would be clearly inappropriate." AFI 36-3208, Chapter 5, Section H, paragraph 5.48.4. Given [REDACTED] repeated misconduct and lack of meritorious service record, an Under Honorable Conditions (General) discharge is appropriate.

5. **95 ABW/CC Options**: As separation authority, you are empowered to:

a. Retain the respondent; or,

b. Discharge the respondent with a general discharge for minor disciplinary infractions (AFI 36-3208, paragraph 5.49), with or without probation and rehabilitation; or,

c. Recommend to HQ AFFTC/CC that the respondent be discharged with an honorable discharge for minor disciplinary infractions (AFI 36-3208, paragraph 5.49), with or without probation and rehabilitation; 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.

6. **Recommendation:** According to [REDACTED] the respondent has failed to correct his conduct. [REDACTED] record shows he ignored numerous opportunities to correct his behavior and continued his pattern of misconduct. Therefore, I recommend the respondent be separated from the Air Force with an Under Honorable Conditions (General) Discharge under **AFI 36-3208**, Chapter 5, Section **H**, paragraph 5.49 without probation and rehabilitation. If you concur, please sign the letter located at Tab 1.

[REDACTED]  
Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 95TH AIR BASE WING (AFMC)  
EDWARDS AIR FORCE BASE, CALIFORNIA

UM F R [REDACTED]

20 SEP 96

FROM: 95 SPS/CC  
105 E Mojave Blvd  
Edwards AFB CA 93524-1145

SUBJECT: Notification Memorandum

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**, paragraph **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.

My reasons for this action are:

- a. You, did on or about 03 July 1995, without authority, fail to go at the time prescribed to your appointed place of duty as evidenced by a Letter of Counseling from [REDACTED] dated 3 Jul 95. (Atch 1.1).
- b. You, did on or about 15 August 1995, without authority, fail to go at the time prescribed to your appointed place of duty as evidenced by a Letter of Reprimand from [REDACTED] dated 21 Aug 95. (Atch 1.2).
- c. You, did on or about 14 November 1995, violate a lawful instruction, **AFI 36-2903**, by reporting to work unshaven as evidenced by a Letter of Counseling, undated. (Atch 1.3).
- d. You, were on or about 2 January 1996, derelict in the performance of your assigned duty in that you left a weapon unattended, resulting in the inadvertent discharge of that weapon as evidence by a Letter of Reprimand, dated 30 Jan 96. (Atch 1.4).
- e. You, did on or about 27 March 1996, without authority, fail to go at the time prescribed to your appointed place of duty as evidenced by a Letter of Reprimand from [REDACTED] dated 27 Mar 96. (Atch 1.5).
- f. You, did on or about 16 July 1996, without authority, fail to go at the time prescribed to your appointed place of duty as evidenced by a Letter of Counseling from [REDACTED] dated 16 Jul 96. (Atch 1.6).
- g. You, did on or about 25 July 1996, without authority, fail to go at the time prescribed to your appointed place of duty as evidenced by a Memo for Record by the First Sergeant dated 26 Jul 96 and a Letter of Counseling from [REDACTED] dated 25 Jul 96. (Atch 1.7).

h. You, were on or about 21 August 1996, derelict in the performance of your assigned duty in that you failed to conduct Base Entry Point Checks (BEPC'S) as evidenced by a Memo for Record by [REDACTED], dated 29 Aug 96. (Atch 1.8).

i. You, did on or about 1 September 1996, without authority, fail to go at the time prescribed to your appointed place of duty as evidenced by an Article 15, dated 19 Sep 96, with supporting documents. (Atch 1.9).

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.

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 AOC at Bldg 6200 on 24 Sept at 0900 hrs. You may consult civilian counsel at your own expense

You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 27 SEPT 96 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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.

You have been scheduled for a medical examination. You must report to the Physical Examination Section, Flight Surgeon's Office, Bldg 3925 at 0800 hrs on 25 Sep 96 for the examination.

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.

[REDACTED]  
Commander

Attachments:

1. Supporting documents
  - 1.1 LOC, dtd 3 Jul 95
  - 1.2 LOR, dtd 21 Aug 95
  - 1.3 LOC, undtd