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ISSUES A92.21		INDEX NUMBER A67.10		<table border="1"> <tr> <td>1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td>2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td>3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td>4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </table>		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																
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HEARING DATE 20010323		CASE NUMBER ED-01-00056																																	
REMARKS Case heard at Andrews AFB, MD Advise applicant of the decision of the Board, the right to appear before the Board with or without counsel, and the right to submit an application to the AFBCMR.																																			
SIGNATURE OF BOARD MEMBER			SIGNATURE OF BOARD MEMBER																																
ENDORSEMENT			DATE																																
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																																

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-01-00056

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

The applicant was offered a personal appearance before the Discharge Review Board (Board) but declined to exercise this right.

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 that would justify a change of discharge.

The applicant's issue is listed in the attached brief

The applicant appeals for upgrade of discharge based on his one year of post-service activities. The Board recognized the applicant's efforts to provide good service for his employer, to attend college, and his support of the Scouting program; however, no inequity or impropriety in his discharge was suggested or found in the course of the records review. The Board concluded that the character of and reason for discharge were appropriate due to his misconduct.

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) MISSING DOCUMENTS

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 00/03/23 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 79/04/28. Enlmt Age: 18 2/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-01, E-39, G-53, M-01. PAFSC: 33731 - Fire Protection Apprentice. DAS: 99/01/01.

b. Prior Sv: AFRes 97/07/23 - 98/01/06 (5 months 14 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enld as AMN 98/01/07 for 4 yrs. Svd: 2 Yrs 2 Mo 17 Das, all AMS.

b. Grade Status: AMN - 00/03/06 (Article 15, Vacation, 00/03/06)
A1C - 98/11/07

c. Time Lost: none.

d. Art 15's: (1) 00/03/06, Vacation, USAF Academy, CO - Article 92 & 117. You, who knew of your duties, o/a 02 Feb 00, were derelict in the performance of those duties in that you willfully failed to was a vehicle and wax another, as it was your duty to do. You did, o/a 04 Feb 00, wrongfully use provoking words, to wit: "why do you keep fucking me over" and "if you ever try to fuck me over . . . I will do something about it." or words to that effect, towards A1C ----- . Rdn to Amn. (No appeal) (No mitigation)

(2) 99/12/23, USAF Academy, CO - Article 92. You, who knew or should have known of your duties, o/a 04 Dec 99, were derelict in the performance of those duties, in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21, as it was your duty to do. Article 108. You did, o/a 04 Dec 99, w/o proper authority, willfully damage by tearing down from the ceiling, an exit sign, military property of the United States, the amount of said damage being in the sum of more than \$100.00. Rdn to Amn (susptill 20 Jun 00), forfeiture of \$530.00 pay, and 30 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOC, 13 FEB 00 - Failure to go.
 LOC, 13 FEB 00 - Violation of AFI 36-2903.
 LOC, 13 FEB 00 - Failure to go.
 LOC, 13 FEB 00 - Failure to go.
- f. CM: none.
- g. Record of Sv: 98/01/07 99/10/12 USAF Academy 4 (Initial)
 (Discharged from USAF Academy)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (2) Yrs (8) Mos (1) Das
 TAMS: (2) Yrs (2) Mos (17) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/01/17.
 (Change Discharge to Honorable)

Issue 1: Sir, I would just like to say thank you for reviewing my case. I have many character statements that I can not provide due to the fact that I never received them prior to my departure. I work for -----, & have been working for them for about 8 months. I have recieving (sic) nothing but good reports from my supervisor; they also, on many occasions let me know that I'm doing an excellent (sic) job. I also go to school full time, & plan on achieving my BS. Since I am an Eagle Scout I help my little brothers troupe (sic) out when ever I can. In conclusion, please consider me for the upgrade to Honorable Discharge. I do believe I deserve it. Thank you for your time Sir.

ATCH

1. College Transcript & Student Schedule.

01/02/21/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 10TH AIR BASE WING
 UNITED STATES AIR FORCE ACADEMY COLORADO 80840-2240

13 Mar 00

MEMORANDUM FOR io ABW/CC

FROM: 10ABW/JA

SUBJECT: Legal Review of Administrative Discharge - [REDACTED]

1. I have reviewed the subject discharge case file and find it legally sufficient to support the respondent's discharge from the Air Force with a general (under honorable conditions) discharge. The discharge package demonstrates that significant negative aspects of the respondent's conduct outweigh positive aspects of his military record. Thus, a general (under honorable conditions) discharge is an appropriate service characterization. I recommend you discharge the respondent with a general (under honorable conditions) discharge with no offer of probation and rehabilitation.

2. **FACTS:** This action was initiated under AFI 36-3208, paragraph 5.49, for minor disciplinary infractions. Specifically, on or about 4 Dec 99, member consumed alcohol while underage and damaged government property. As a result, he received punishment under Article 15, dated 23 Dec 99. On or about 27 Jan 00, member failed to report to a mandatory appointment. As a result, he received a letter of counseling, dated 13 Feb 00. On or about 1 Feb 00, member violated AFI 36-2903 by wearing a tongue ring. As a result, he received a letter of counseling, dated 13 Feb 00. On or about 9 Feb 00, member failed to report to mandatory physical training. As a result, he received a letter of counseling, dated 13 Feb 00. On or about 10 Feb 00, member failed to report to Commander's Call. As a result, he received a letter of counseling, dated 13 Feb 00. On or about 2 Feb 00, member failed to perform required extra duty and on or about 4 Feb 00, member used provoking words towards another airman. As a result, his suspended reduction to the grade of E-2 was vacated on 6 Mar 00.

3. **RESPONDENT'S STATEMENT:** The respondent consulted counsel and submitted written matters for your consideration. He submits his conduct prior to December 1999 outweighs his recent misconduct and requests the opportunity to continue serving in the Air Force.

4. **COMMANDER'S RECOMMENDATION:** 510CES/CC, the respondent's commander, recommends the respondent be discharged with a general (under honorable conditions) discharge with no offer of probation and rehabilitation.

5. ANALYSIS:

a. A preponderance of the evidence supports the basis for discharge alleged in paragraph 2 of the notification letter. There are no errors or irregularities impacting a substantial right of the respondent.

b. Before initiating this discharge, the respondent's commander utilized numerous administrative actions in an attempt to rehabilitate the respondent including an Article 15 and letters of reprimand and counseling. Despite these attempts to correct his behavior, the respondent has demonstrated no desire to change and conform to Air Force standards. Accordingly, probation and rehabilitation is not warranted.

6. OPTIONS: Your options with regard to this action are:

- a. Retain the respondent on active duty;
- b. Order the respondent's separation with a general (under honorable conditions) discharge;
- c. Forward the package to HQ USAFA/CC recommending an honorable discharge; or
- d. Return the package to 10 ABW/JA for further processing if you feel a characterization of under other than honorable conditions is warranted.

7. RECOMMENDATION: I recommend you discharge the respondent with a general (under honorable conditions) discharge without probation and rehabilitation.



Staff Judge Advocate

DEPARTMENT OF THE AIR FORCE
510th CIVIL ENGINEER SQUADRON
UNITED STATES AIR FORCE ACADEMY COLORADO

6 MAR 00

MEMORANDUM FOR [REDACTED]

FROM: 510CES/CC

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

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, paragraph 5.49. If my recommendation is approved, your discharge may be described as honorable, general under honorable conditions or under other than honorable conditions. I am recommending that your service be characterized as general under honorable conditions.

2. My reasons for this action are:

a. On or about 4 Dec 99, you consumed alcohol while underage and damaged government property. As a result, you received punishment under Article 15, dated 23 Dec 99. (Atch 1)

b. On or about 27 Jan 00, you failed to report to a mandatory appointment. As a result, you received a letter of counseling, dated 13 Feb 00. (Atch 2)

c. On or about 1 Feb 00, you violated AFI 36-2903 by wearing a tongue ring. As a result, you received a letter of counseling, dated 13 Feb 00. (Atch 3)

d. On or about 9 Feb 00, you failed to report to mandatory physical training. As a result, you received a letter of counseling, dated 13 Feb 00. (Atch 4)

e. On or about 10 Feb 00, you failed to report to Commander's Call. As a result, you received a letter of counseling, dated 13 Feb 00. (Atch 5)

f. On or about 2 Feb 00, you failed to perform required extra duty and on or about 4 Feb 00, you used provoking words towards another airman. As a result, your suspended reduction to the grade of E-2 was vacated on 6 Mar 00. (Atch 6)

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. If you are discharged, you will be ineligible for reenlistment in the Air Force.

3. 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] of the Area Defense Counsel on -- at hours in Harmon Hall, Room 323. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1300 hours on 9 MAR 00 2000 unless you request and receive an extension for good cause shown. I will send these statements to the separation authority.

5. If you fail to consult counsel or submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

6. You have been scheduled for a medical examination. You must report to Physical Examinations in the Cadet Clinic, Station 22, at 0700 on 13 MAR 2000 with your medical records.

7. 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 Personnel and Administrative Services Section. Execute the attached acknowledgment and return it to me immediately.



Attachments:

1. Article 15 punishment, dated 23 Dec 99
2. Letter of Counseling, dated 13 Feb 00
3. Letter of Counseling, dated 13 Feb 00
4. Letter of Counseling, dated 13 Feb 00
5. Letter of Counseling, dated 13 Feb 00
6. Article 15 vacation action, dated 6 Mar 00