

		PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO							
	X							
MEMBERS SITTING				BON	GEN	UOTHC	OTHER	DENY
[REDACTED]								X
[REDACTED]								X
[REDACTED]								X
[REDACTED]								X
[REDACTED]								X
ISSUES		INDEX NUMBER		1 ORDER APPOINTING THE BOARD				
A92.01, A92.15, A93.33		A67.10		2 APPLICATION FOR REVIEW OF DISCHARGE				
				3 LETTER OF NOTIFICATION				
BEARING DATE		CASE NUMBER		4 BRIEF OF PERSONNEL FILE				
01 04 06		FD01-00057		COUNSEL'S RELEASE TO THE BOARD				
				ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE				
				TAPE RECORDING OF PERSONAL APPEARANCE HEARING				
REMARKS								
Case heard at Washington, 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				
[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 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 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.

Issue 1. Applicant contends discharge was inequitable because he had personality conflicts between him and his commander. The records indicated the applicant received an Article 15, two Letters of Reprimand, a Letter of Admonishment and a Record of Individual Counseling for misconduct. The misconduct included making false representations to co-workers, sleeping on duty, being disrespectful to an officer, on several occasions using provoking and reproachful language, and disobeying a direct order not to take a lunch break. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. Administrative actions were given by the applicant's Officer-In-Charge (OIC) and his commander. There was no evidence in the record nor provided by the applicant that indicated that the administrative actions were not warranted. If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise his right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community. 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.

Issue 2. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance report and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/03/29 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 74/05/10. Enlmt Age: 21 4/12. Disch Age: 25 10/12. Educ:HS DIPL. AFQT: N/A. A-37, E-43, G-52, M-18. PAFSC: 4N051 - Medical Services Journeyman. DAS: 96/10/04.

b. Prior Sv: (1) AFRes 95/09/14 - 96/02/13 (5 months) (Inactive).

(2) Enld as AB 96/02/14 for 4 yrs. Svd: 3 yrs 3 mos 29 das, all AMS. AMN - 96/08/14. A1C-(EPR Indicates): 97/10/14-98/10/13. SRA - 99/02/14. EPRs: 4,5.

ART 15: 97/06/21, McConnell AFB, KS - Article 92. You did, at or near Baton Rouge, Louisiana, from o/a 23 Dec 96 to o/a 25 Dec 96, violate a lawful general regulation, to wit: para 22, AFI 65-104, dated 1 May 96, by wrongfully using your ----- government travel card for personal use. Rdn to AB (susp till 20 Jul 97), forfeiture of \$450.00 pay per month for two months. (No appeal) (No mitigation).

3. **SERVICE UNDER REVIEW:**

a. Reenld as SRA 99/06/14 for 6 yrs. Svd: 0 Yrs 9 Mo 15 Das, all AMS.

b. Grade Status: A1C - 00/03/07 (Article 15, 00/03/07)

c. Time Lost: none.

d. Art 15's: (1) 00/03/07, McConnell AFB, KS - Article 91. You, having received a lawful order from TSgt -----, a noncommissioned officer, then known by you to be a noncommissioned officer, not to take a lunch break, an order which it was your duty to obey, did, o/a 11 Feb 00, willfully disobey the same. Article 107. You did, o/a 11 Feb 00, with intent to deceive, make to TSgt ---- and SSgt -----, an official statement, to wit: MSgt ----- had given you permission to attend the ORI outbrief at -----, which statement was totally false, and was then known by you to be so false. Rdn to A1C, forfeiture of \$667.00 pay per month for two-months (susp

till 6 Sep 00), and 30 days extra duty.

- e. Additional: LOR, 22 JUN 99 - False representations & false statements.
RIC, 28 JUL 99 - Sleeping on duty & disrespect to an officer.
LOR, 13 DEC 99 - Reproachful words & dereliction of duty.
LOA, 20 DEC 99 - Using provoking & reproachful words, and insubordination.
- f. CM: none.
- g. Record of SV: 98/10/14 99/08/05 McConnell AFB 3 (CRO)
(Discharged from McConnell AFB)
- h. Awards & Decs: AFLSAR, AFTR.
- i. Stmt of Sv: TMS: (4) Yrs (6) Mos (16) Das
TAMS: (4) Yrs (1) Mos (16) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/01/16.
(Change Discharge to Honorable)

Issue 1: On March 29, 2000 I was discharged (General) Under Honorable Conditions. I wish to have this upgraded to an honorable discharge because I believe I served the USAF honorably. I believe that personality conflicts between my commander and I was the reason for the discharge. I do not claim complete innocence in this matter. I did make some, what I believe, small mistakes to encourage (sic) this disciplinary action, but I do believe that I deserve an honorable discharge. Please review my military records and base your decision on those records. I thank you for your time & consideration into this matter.

ATCH
none.

01/02/22/ia

FD01-00057



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 22D AIR REFUELING WING (AMC)
STAFF JUDGE ADVOCATE
MCCONNELL AIR FORCE BASE, KANSAS

27 MAR 2000

MEMORANDUM FOR [REDACTED]

FROM: [REDACTED]

SUBJECT: Involuntary Discharge - [REDACTED]

1. **FACTS AND CIRCUMSTANCES:** On 23 March 2000, Lieutenant Colonel [REDACTED] Commander of the 22d Medical Operations Squadron, recommended that A1C [REDACTED] be involuntarily discharged from the United States Air Force pursuant to AFI 36-3208, paragraph 4.49, for minor disciplinary infractions. Lt Col [REDACTED] recommended that A1C [REDACTED] be given an under honorable conditions (general) discharge with ut probation and rehabilitation.

2. **EVIDENCE:**

a. **Evidence for the Government.** During this enlistment in the Air Force, A1C [REDACTED] has engaged in a pattern of minor disciplinary infractions. A brief description of these infractions follows:

(1) On or about 22 Jun 99, A1C [REDACTED] was given a Letter of Reprimand (LOR) for making false representations to co-workers in order to get them to trade shifts with him and for making a false statement to his supervisor. This is evidenced by a Letter of Reprimand (LOR), dated 22 Jun 99.

(2) On or about 28 Jul 99, A1C [REDACTED] was given a Letter of Counseling (LOC) for sleeping on duty and being disrespectful to an officer, This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 28 Jul 99.

(3) On or about 6 to 10 Dec 99, A1C [REDACTED] used words that were provoking and reproachful in nature. Additionally, on 10 Dec 99, he was derelict in his duties in that he received an urgent telephone call from SMSgt [REDACTED] regarding his 14 year old son, a diagnosed epileptic, who was suffering from uncontrollable tremors. A1C [REDACTED] failed to relay the message causing a 35 minute delay in the child's emergency care. This is evidenced by a LOR, dated 13 Dec 99.

(4) On or about 20 Dec 99, A1C [REDACTED] used words that were provoking and reproachful in nature, was insubordinate to a NCO, and left work early without permission. This is evidenced by a Letter of Admonishment (LOA), dated 20 Dec 99.

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(5) On or about 11 Feb 00, A1C ██████ willfully disobeyed a direct order not to take a lunch break. A1C ██████ requested duty time to take care of personal matters which his supervisor granted on the condition that he remain at work during the lunch period. A1C ██████ violated the order by leaving his work station and going to Burger King to eat. In addition, on about 11 Feb 00, with intent to deceive, A1C ██████ made an official statement, that he was given permission to attend the ORI outbrief which was a false statement known by him to be false. These are evidenced by an AF Form 3040 (Record of Nonjudicial Punishment Proceedings), dated 7 Mar 00.

b. Evidence for the Respondent. On 23 Mar 00, A1C ██████ acknowledged his right to counsel and to submit written statements in his own behalf. However, A1C ██████ did not submit matters.

3. **DISCUSSXON**: As the separation authority, you must make four determinations: (1) whether a basis for discharge exists; (2) whether an involuntary discharge is appropriate in this case; (3) if discharge is appropriate, how the discharge should be characterized; and (4) whether probation and rehabilitation (P&R) is appropriate.

a. Basis for Discharge: AFI 36-3208, paragraph 5.49, states that airmen who engage in a pattern of minor disciplinary infractions are subject to discharge. The offenses listed above make A1C ██████ subject to discharge under this provision.

b. Appropriateness of Discharge: AFI 363208, paragraph 6.1.1, lists the factors that you must consider in making this determination. Among those factors are the seriousness of the circumstances that make A1C ██████ subject to discharge, whether those circumstances are likely to continue or recur, and whether he has the ability to perform his duties effectively now and in the future. A1C ██████ has committed several infractions in this enlistment in the Air Force. Additionally, A1C ██████ had numerous minor disciplinary infractions from his previous enlistment. A1C ██████ has demonstrated an unwillingness or inability to comply with the standards required of Air Force members. He has failed to take advantage of the second chance his reenlistment offered him. His continued misconduct demonstrated that he is unsuitable for military service. Accordingly, discharge is appropriate. It seems likely that he will continue to commit offenses if retained, and, as a result would be unable to perform his duties effectively.

c. Characterization of the Discharge: AFI 36-3208, paragraph 1.17.3, requires that you consider the airman's age, length of service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance for airmen in determining the proper characterization. Paragraph 1.18.2 states that when an airman's service has been faithful on the whole, yet significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of his record, an under honorable conditions (general) discharge is

appropriate. A1C [redacted] series of offenses in this enlistment put him far below the level of acceptable conduct. These offenses demonstrate his lack of integrity, lack of respect for co-workers, and his disregard for good order and discipline. A general discharge accurately reflects his service in this enlistment.

d. Probation and Rehabilitation: Under AFI 36-3208, paragraph 7.3, a member must have the potential to serve satisfactorily and the capacity to be rehabilitated before an offer of P&R is appropriate. A1C [redacted] consistent history of offenses despite the corrective efforts of his squadron, indicates that an offer of P&R would not be appropriate in this case.

4. **RECOMMENDATION** The evidence in the file is factually and legally sufficient to support Lt Col [redacted] recommendation. I recommend you sign the attached letter directing A1C [redacted] be involuntarily discharged from the United States Air Force pursuant to AFI 36-3208, paragraph 5.49, with an under honorable conditions (general) discharge without probation and rehabilitation.

[Redacted signature]

Assistant Staff Judge Advocate

Attachments:

- 1. Letter Directing Discharge
- 2. AFI 36-3208 Discharge Package

I have carefully reviewed the foregoing legal opinion in the case of A1C [redacted] I concur with the recommendations contained therein and adopt them as my own.

[Redacted signature]

[redacted], Major, USAF
Staff Judge Advocate

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 22D AIR REFUELING WING (AMC)
McCONNELL AIR FORCE BASE, KANSAS

MEMORANDUM FOR A1 [REDACTED]

23 March 20

FROM: 22 MDOSICC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions, in accordance with AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service may be characterized as either honorable, under honorable conditions (general), or under other than honorable conditions (UOTHC). I am recommending that your discharge be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You were, on or about 22 Jun 99, given a Letter of Reprimand (LOR) for making false representations to coworkers in order to get them to trade shifts with you and for making a false statement to your supervisor. This is evidenced by a Letter of Reprimand (LOR), dated 22 Jun 99.

b. You were, on or about 28 Jul 99, given a Letter of Counseling (LOC) for sleeping on duty and being disrespectful to an officer. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 28 Jul 99.

c. You did, on or about 6 to 10 Dec 99, use words that were provoking and reproachful in nature. Additionally, on 10 Dec 99, you were derelict in your duties in that you received an urgent telephone call from [REDACTED] regarding his 14 year old son, a diagnosed epileptic, who was suffering from uncontrollable tremors. You failed to relay the message causing a 35-minute delay in the child's emergency care. This is evidenced by a Letter of Reprimand (LOR), dated 13 Dec 99.

d. You did, on or about 20 Dec 99, use words that were provoking and reproachful in nature, were insubordinate to a NCO, and left work early without permission. This is evidenced by a Letter of Admonishment (LOA), dated 20 Dec 99.

e. You did, on or about 11 Feb 00, willfully disobey a direct order in which you were told not to take a lunch break. In addition, you did on about 11 Feb 00, with intent to deceive, make an official statement, that you were given permission to attend the ORI outbrief which was a false statement known by you to be false. These are evidenced by an AF Form 3070 (Record of Nonjudicial Punishment Proceedings), dated 7 Mar 00.

3. You have the right to consult military counsel. Military legal counsel will be made available to assist you, at no expense to you. I have made an appointment for you to consult with the Area Defense Counsel (ADC) at McConnell AFB KS on 24 MAR 00 at 0900 L. You can contact the ADC at ext. 4375. You may consult civilian counsel at your own expense.
4. You have the right to submit matters in your own behalf. Any statements you want the separation authority to consider must reach me by 28 MAR 00 at 1100 L unless you request and receive an extension for good cause shown. Any statements or other matters you submit will be forwarded to the separation authority.
5. 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.
6. You have been scheduled for a **mandatory** medical appointment. You are to report to the 22d Medical Squadron, Physical Exams Section, on 23 MAR 00 at 1400 L. Take your medical records with you.
7. If you live in base housing, you must contact the housing office immediately upon receipt of this notification.
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 squadron orderly room.
10. Execute the attached acknowledgment and return it to me immediately.


Colonel, USAF
Commander, 22 Medical Operations Squadron

Attachments:

1. Receipt of Notification Memorandum
2. Statement of Understanding
3. LOR, dated 22 Jun 99
4. AF Form 174, dated 28 Jul 99
5. LOR, dated 13 Dec 99
6. LOA, dated 20 Dec 99
7. AF Form 3070, dated 7 Mar 00