

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; height: 1.2em; width: 100%;"></div>		GRADE A1C	AFSN/SSAN <div style="background-color: black; height: 1.2em; width: 100%;"></div>
TYPE	X PERSONAL APPEARANCE		RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NO		
	X		
MEMBERS SITTING		VOTE OF THE BOARD	
		HON	GEN
		UOTHC	OTHER
		DENY	
			X
			X
			X
			X
			X
ISSUES A94.05	INDEX NUMBER A67.10	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 18 NOV 02		CASE NUMBER FD01-00032	
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.			
REMARKS Case heard at Dobbins ARB, Georgia Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR.			
SIGNATURE OF RECORDER <div style="background-color: black; height: 1.2em; width: 100%;"></div>		SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; height: 1.2em; width: 100%;"></div>	
INDORSEMENT		DATE: 18 NOV 02	
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

FD01-00032

GENERAL: The applicant appeals for upgrade of discharge to Honorable, change the Reason for discharge and change the RE Code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Dobbins ARB, GA on November 18, 2002. The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge to Honorable, change the Reason for discharge and change of the RE Code is denied.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an impropriety that would justify upgrade of the discharge.

ISSUES: The applicant was discharged with a General Discharge for Misconduct – Minor Disciplinary Infractions. Applicant states that there was an "information file" kept on her and which was used to rate her and that she did not have access to that file. The record indicates the Member received an Article 15 for dereliction in the performance of her duties. She also received four Letters of Reprimand for dereliction of duty (twice), making a false statement, and failure to follow orders. And, two Letters of Counseling for failure to go and failure to follow instructions. The Board did not look at, nor consider any information that was not documented. Based on the documented evidence in the record, the Board concluded the misconduct of the applicant appropriately characterized her term of service.

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

[REDACTED]
[REDACTED]
(Former AlC)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 98/04/10 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch, Change in Reason for Disch, and to Change the RE Code. Disch.

2. **BACKGROUND:**

a. DOB: 76/02/04. Enlmt Age: 19 2/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-67, E-59, G-62, M-28. PAFSC: 3S051 - Personnel Journeyman. DAS: 96/04/17.

b. Prior Sv: AFRes 95/04/13 - 95/12/12 (8 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AlC 95/12/13 for 4 yrs. Svd: 2 Yrs 3 Mo 28 Das, all AMS.

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: (1) 98/03/11, F.E. Warren AFB, WY - Article 92. You, who knew of your duties, o/a 13 Jan 98, were derelict in the performance of those duties in that you negligently failed to have the Senior Noncommissioned Officer (SNCO) folders completed by 23 Feb 98, as it was your duty to do. Rdn to Amn (susp till 10 Sep 98), and forfeiture of \$50.00 pay per month for two months. (No appeal) (No mitigation)

e. Additional: LOR, 26 JAN 98 - Dereliction of duty.
LOR, 26 JAN 98 - Making a false statement.
LOR, 18 JUL 97 - Dereliction of duty.
LOR, 11 APR 97 - Dereliction of duty.
LOR, 31 MAR 97 - Failure to follow orders.
LOC, 21 MAR 97 - Failure to follow instructions properly.
LOC, 06 JAN 97 - Failure to go.
LOC, 06 JAN 97 - Failure to go.
LOR, 27 JUN 97 - Unsatisfactory progress on Weight Management Program Phase I.

f. CM: none.

g. Record of SV: 95/12/13 97/08/12 F.E. Warren AFB 2 (Initial) REF
(Discharged from F.E. Warren AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (11) Mos (28) Das
TAMS: (2) Yrs (3) Mos (28) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 00/10/24.

(Change Discharge to Honorable, Change the Reason for Disch, and Change the RE Code.)

Issue 1: Violation of section 4.4, Record Access, of AFI 36-2608, Handling Commander's or Supervisor's Assigned Personnel Information Files which states, "People who the subjects of the records may gain access per AFi (sic) 37-132."

Issue 2: Violation of paragraph (d), Access to records, of section 552a, Records maintained on individuals, of the Privacy Act of 1974 which states, "Each agency that maintains a system of records shall - (1) upon request by any individual to gain access to his record or to any information pertaining to which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him."

The above stated violations occurred from 6 Nov 96 to 21 Aug 97. During this time period there was a "information file" Maintained on myself by my supervisor which I was not aware of until 21 Aug 97, the day I was served a referral EPR. On this Day after I was served a referral EPR, my supervisor picked up the "information file" and told me that the information inside that Folder was the information used to write the EPR. I was then told that it would be given to her supervisor (Superintendent of Customer Service) and would be kept under lock and key, and that I could not and would not be allowed to look at it. The same "information file" was then passed on to my next Supervisor, who gave it to me and told me to do whatever I wanted to do with it because, he did not want (sic). So that evening after reading through the file I decided to show it to my First Sergeant, who found it necessary to destroy the original copy.

I am submitting the enclosed package requesting review and upgrade of my discharge from the U.S. Air Force on April 10, 1998. I am requesting that all enclosed information is taken into consideration as well as any additional information that is presented at the time of my appearance in front of the Air Force Discharge Appeals Board as requested on my application.

I am requesting that upon the board's review of this information that the type of separation be changed to voluntary and the character of service be upgraded to honorable. I am also requesting the reentry code be changed to a 1J, the separation code and reason for separation would also need to be changed to reflect the above information. Also, my DD form 214 should reflect that I did pay into the Montgomery GI Bill.

I would consider it a privilege to return to active duty in the U.S. Air Force at the rank held at discharge. Your time and consideration in this matter are greatly appreciated.

ATCH

1. DD Form 214 (Members 4 & 1).
2. MFR (Undated).
3. MFR, 12 Nov 97.
4. MFR, 01 May 97.
5. LOC, 06 Jan 97.
6. LOC, 21 Mar 97.
7. LOR, 31 Mar 97.
8. Written Order, 31 Mar 97.
9. LOR, 11 Apr 97.
10. UIF, 15 Apr 97.
11. LOR, 27 Jun 97.
12. Memorandum for 90 MSS/CC, 02 Jul 97.
13. Weight Progress Processing, 10 Mar 97.
14. Medical Consultation Sheet, 01 Apr 97.
15. Physical Profile Serial Report, 23 Apr 97.
16. Physical Profile Serial Report, 02 Apr 97.
17. Standard Form 175, 21 Apr 97.
18. UIF Summary.
19. Memorandum for 90 MSS/CC, 17 Jul 97.
20. Memorandum to Applicant, 17 Jul 97.
21. Random Weigh-in Worksheet.
22. 90 MG/SGHMA Form 22, Individual's Performance.
23. Notification of Commander's Directed Mental Health Evaluation, 18 Jul 97.
24. Memorandum for 90 MSS/CC, 30 Jul 97.
25. LOR, 18 Jul 97.
26. Response to Letter of Reprimand, 13 Aug 97.
27. UIF, 28 Aug 97.
28. Four AF Forms 931, Performance Feedback Worksheet.
29. Memo, Referral of Enlisted Performance Report, 21 Aug 97.
30. Enlisted Performance Report.
31. Response to Referral Enlisted Performance Report, 27 Aug 97.
32. BMTS Performance Summary, 09 Feb 96.
33. AETC Form 156.
34. Letter of Appreciation, 02 Dec 96.

01/01/31/ia



DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)

08 APR 1998

MEMORANDUM FOR CC *JA*

FROM: JA

SUBJECT: Legal Opinion: Discharge Under Provisions of AFD 36-32 and AFI 36-3208, Para 5.49, [REDACTED], 90 MSS)

1. **BASIS FOR ACTION:** Administrative discharge action was initiated on 31 Mar 98 against A1C Christina M. Tutchter under the provisions of AFD 36-32 and AFI 36-3208, paragraph 5.49 (minor disciplinary infractions). The squadron commander recommends separation with a general discharge. She does not recommend probation and rehabilitation. [REDACTED] is not entitled to a board hearing. She has consulted with counsel and waived her rights to submit statements on her behalf.

2. **FACTS:** [REDACTED]'s record shows a pattern of minor disciplinary problems that violate the UCMJ. Her misconduct includes numerous failures to follow orders, dereliction in the performance of duties, and failures to go. Rehabilitative efforts include establishment of an Unfavorable Information File (UIF), one Article 15, four Letters of Reprimand (LORs), and two Letter of Counseling (LOC). For more details, see the Notification Memorandum dated 31 Mar 98.

3. **PERSONAL DATA:** [REDACTED] is 22 years old and has served on active duty since 13 Dec 95. Her duty title is Customer Service Representative, DAFSC 3S031. She is single and lives on base in a dormitory.

4. REGULATORY GUIDANCE:

a. An airman may be subject to discharge based on a pattern of misconduct that consists solely of minor disciplinary infractions. Minor disciplinary infractions include violations of nonpunitive regulations and minor offenses under the UCMJ. Minor disciplinary infractions are normally evidenced by formal or informal counselings, LORs, and Article 15s.

b. The Air Force concept of probation and rehabilitation (P&R) is to give the member a chance to show that he or she is able to meet Air Force standards. The separation authority may offer P&R in any case where there seems to be a reasonable expectation of rehabilitation. The initiating commander and separation authority must consider P&R if the reason for discharge is misconduct (AFI 36-3208, paragraphs 7.2 and 7.4).

5. FOR THE RESPONDENT:

a. [REDACTED] is entitled to wear the Air Force Training Ribbon.

b. [REDACTED] was served notice of this action on 31 Mar 98, acknowledged receipt, consulted with counsel and waived her rights to submit statements on 6 Apr 98.

6. FOR THE GOVERNMENT:

a. A pattern of minor disciplinary infractions is contrary to the self-discipline required for effective military service. [REDACTED] record shows a history of disciplinary problems that violate the UCMJ. She has demonstrated an inability to comply with very basic of military standards—failing to complete assignment and not showing up to work on time. She has engaged in conduct causing great disruption to the Military Personnel Flight, Customer Service and has shown a complete unwillingness to conform her behavior to what is expected of an airman.

b. [REDACTED] minor disciplinary problems demonstrate that she is not fit for military service. A general discharge is warranted when the negative aspects of an airman's service outweigh the positive. The evidence in support of a general discharge is legally sufficient. The squadron commander believes probation and rehabilitation are not appropriate under the circumstances because [REDACTED] has not responded to previous opportunities to bring her conduct within Air Force standards. We concur.

7. OPTIONS: As the separation authority in this case you may:

- a. Retain [REDACTED] on active duty; or
- b. Recommend reinitiation of this action if you believe an under other than honorable conditions discharge is warranted and refer this case to a board of officers; or
- c. Recommend an honorable discharge with or without probation and rehabilitation and forward this package to 20 AF/CC for approval; or
- d. Discharge [REDACTED] with a general discharge with or without probation and rehabilitation.

8. CONCLUSION AND RECOMMENDATION: This discharge complies with AF1 36-3208 and the record is legally sufficient to support the discharge of [REDACTED] for minor disciplinary infractions. We concur with the squadron commander and recommend you discharge [REDACTED] with a general discharge without probation and rehabilitation. If you have questions or comments you may contact the undersigned or the action officer, [REDACTED], at extension 2256.

[REDACTED] USAF
Staff Judge Advocate

Attachment:
Discharge package w/eight tabs



DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)

31 MAR 1998

MEMORANDUM FOR [REDACTED]

FROM: 90 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, paragraph 5.49. If my recommendation is approved, your service could be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. You, who knew of your duties at or near Francis E. Warren Air Force Base, Wyoming, on or about 13 Jan 98, were derelict in the performance of those duties in that you negligently failed to have the Senior Noncommissioned Officer (SNCO) folders completed by 23 Feb 98, as it was your duty to do. For this conduct, you received an Article 15 on 11 Mar 98 and it was placed in your existing Unfavorable Information File (UIF).

b. Between on or about Nov 97 and on or about Dec 97, you were negligent in the performance of your duties in that you willfully failed to properly complete an audit of personnel records. You received a Letter of Reprimand (LOR) on 26 Jan 98.

c. On or about 16 Jan 98, you made a false official statement to [REDACTED] that all Senior NCO folders had been signed and forwarded to HQ AFPC. You received an LOR on 26 Jan 98.

d. On or about 15 Jul 97, you were negligent in the performance of your duties in that you willfully failed to complete your established duties for the day, to wit: filing source documents in UPRGs, routing Right Start records, accounting for returned Right Start records, filing the returned "checked-out" UPRGs, and cleaning the office. You received an LOR on 18 Jul 97 and it was placed in your existing UIF.

e. On or about 9 Apr 97, you were negligent in the performance of your duties in that you willfully failed to meet suspenses to correct a JUMPS and PURGE reject. You received an LOR on 11 Apr 97, had a UIF established, and you were placed on a control roster.

f. On or about 28 Mar 97, you failed to follow orders to ensure all your filing was complete before departing for leave. You received an LOR on 31 Mar 97.



DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)

31 MAR 1998

MEMORANDUM FOR [REDACTED]

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f. On or about 28 Mar 97, you failed to follow orders to ensure all your filing was complete before departing for leave. You received an LOR on 31 Mar 97.

g. On or about 20 Mar 97, investigation revealed you failed to follow instructions to complete filing in a timely manner. You received a Letter of Counseling (LOC) on 21 Mar 97.

h. On or about 6 Jan 97, you failed to go at the prescribed time to your place of duty, to wit: Building 232. You received an LOC on 6 Jan 97.

i. On or about 20 Dec 96, you failed to go at the prescribed time to your place of duty, to wit: Building 232. You received an LOC on 6 Jan 97.

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 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] of the Area Defense Counsel's Office, Bldg. 292, ext. 3248, on 31 March 1998 at 1000. You may consult civilian counsel at your own expense.

5. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me within three workdays after receipt of the notification letter, that date being 3 April 1998, unless you request and receive an extension for good cause shown. I will send any statements you submit to the separation authority for his consideration.

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. 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.

8. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]
[REDACTED] Lt Col, USAF
Commander

Attachments:

1. AF Form 3070 w/Atchs, dated 11 Mar 98
2. LOR, dated 26 Jan 98
3. AF Form 1058 w/Atchs, dated 28 Aug 97
4. AF Form 1058 w/Atch, dated 11 Apr 97
5. LOR w/Atch, dated 31 Mar 97
6. LOC w/Atch, dated 21 Mar 97
7. LOC w/Atchs, dated 6 Jan 97