

PERSONAL APPEARANCE		X RECORD REVIEW					
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO						
	X						
MEMBERS SITTING		VOTE OF THE BOARD					
		HON	GEN	UOTIC	OTHER	DENY	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD					
A94.05	A67.90	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	CASE NUMBER	APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE					
26 JUL 02	FD2001-00129	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]					
		DATE: 26 JUL 02					
TO:		FROM:					
SAF/MIHR 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					

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD01-00129

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

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: The applicant believes he was unfairly discharged and that if married, the discharge would not have occurred. Also, he thinks that if he was at another base or had different superiors, this discharge would not have occurred. The record indicates the applicant received two Article 15's for failure to refrain from drinking alcohol, failure to go, and failing to wear the proper safety equipment while standing on an aircraft. In addition, he received six Letters of Reprimand for dereliction of duty, failing room inspection, failure to go and failure to obey a lawful order; and one Letter of Counseling for failure to obey proper customs and courtesies. The DRB took note of the applicant's duty performance as documented by his performance and other information contained in the records. The applicant had several different supervisors and was not unfairly discharged. 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 that were the basis for this case. No inequity or impropriety in his discharge was suggested or found in the course of the records review. His misconduct was a significant departure from conduct expected of all military members. The Board concluded that the character 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 or change the reason for 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 00/06/21 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch and to Change the RE Code:

2. **BACKGROUND:**

a. DOB: 80/05/10. Enlmt Age: 18 5/12. Disch Age: 20 1/12. Educ:HS DIPL. AFQT: N/A. A-86, E-67, G-74, M-72. PAFSC: 2A634 - Aircraft Fuel Systems Apprentice. DAS: 99/03/28.

b. Prior Sv: AFRes 98/10/30 - 98/11/17 (18 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 98/11/18 for 4 yrs. Svd: 1 Yrs 7 Mo 4 Das, all AMS.

b. Grade Status: AMN - 00/05/25 (Article 15, 00/05/25)
AIC - 99/01/09

c. Time Lost: none.

d. Art 15's: (1) 00/05/25, Cannon AFB, NM - Article 91. You, having received a lawful order from MSgt -----, a superior noncommissioned officer, then known by you to be a superior noncommissioned officer, to refrain from drinking alcohol for the duration of your temporary duty in support of 522 Fighter Squadron's training mission at Holloman Air Force Base, NM, from o/a 8 May 00, or words to that effect, an order which it was your duty to obey, did, at or near Juarez, Mexico, o/a 8 May 00, willfully disobey the same. Article 86. You did, o/a 19 May 00, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, who knew of your duties, o/a 19 May 00, were derelict in the performance of those duties in that you willfully failed to wear the proper safety equipment while standing on Aircraft 328, as it was your duty to do. Rdn to Amn, 30 days restriction, and 30 days extra duty. (Appeal/Denied) (No mitigation)

(2) 99/09/15, Cannon AFB, NM - Article 92. You, who knew of your duties, between o/a 5 Sep 99 and o/a 6 Sep 99, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while under the legal age of 21, as

it was your duty to do. Rdn to Amn (susp till 14 Mar 00), 30 days restriction, and 30 days extra duty.
(No appeal) (No mitigation)

- e. Additional: LOR, 03 MAR 00 - Dereliction of duty.
LOR, 21 OCT 99 - Failed room inspection.
LOR, 13 SEP 99 - Failure to go.
LOR, 23 JUL 99 - Failed room inspection.
LOR, 02 JUL 99 - Failure to go.
LOR, 27 MAY 99 - Failure to obey a lawful order.
LOC, 07 MAY 99 - Failure to obey proper customs & courtesies to retreat.
- f. CM: none.
- g. Record of SV: none.
(Discharged from Cannon AFB)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (1) Yrs (7) Mos (22) Das
TAMS: (1) Yrs (7) Mos (4) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/03/30.
(Change Discharge to Honorable and Change the RE Code)

Issue 1: I feel the records I am submitting show I was unfairly discharged.

Issue 2: I feel if, under the same circumstances, I was married this would not have occurred (sic).

Issue 3: I believe, under the same circumstances, if I was at another base, or had different superiors this would not have occurred (sic).

Issue 4: After exiting the Air Force, it is much clearer what I have lost. The appreciation that may not have been made obvious, for the minor things such as the privilege of living on a military installation is now much evident.

Although I feel I was railroaded, I still feel I have failed. I am the type of individual who likes to finish what I have started. I believe if given the opportunity to reenlist, my hard work and dedication would be an asset to my countries military.

I also feel I am a trustworthy individual, as evidence to support this claim is a letter from a housewife in my community. It takes much trust to allow little children to play basketball and other activities with a young man, as the world is now full of sickness and sin. With this being said, I believe I should be given an opportunity to once again serve in my nations military.

I have gained the trust of my landlord, former employer, and my community.

Now I am asking to again be trusted by my country.

I am willing to do whatever it takes to gain your trust. I will travel to any reasonable location to be questioned of my past and present. I will allow my integrity to be put on display. I just wish mercy and the opportunity to again be an airman for my countries Air Force. Thank you for your time and consideration.

ATCH

1. DD Form 214.
2. VA Cover Letter, 17 Apr 01.
3. Applicant's Letter to the Discharge Review Board.
4. Character Reference.
5. Two Performance Feedback Worksheets.
6. Five Character References.

01/05/08/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 27th FIGHTER WING (ACC)
CANNON AIR FORCE BASE NEW MEXICO

19 JUN 2000

MEMORANDUM FOR 27 FW/CC

FROM: 27 FW/JA

SUBJECT: Legal Review of Proposed AFI 36-3208 Discharge Action Under AFDP 36-32
[REDACTED] (AFR [REDACTED] 27 CRS)

1. I have reviewed the attached discharge action on Amn [REDACTED] and consider it factually, procedurally, and legally sufficient. The initiating commander recommends discharge for misconduct, specifically, a pattern of misconduct prejudicial to good order and discipline. This case meets the criteria for discharge under AFI 36-3208, paragraph 5.50.2 and is supported by a preponderance of the evidence. The commander recommends a General Discharge. This member is not entitled to a hearing before an administrative discharge board.

2. DISCUSSION:

a. In support of this action, the commander cites the following reasons: Amn [REDACTED] failed to obey a lawful order by drinking while under the legal drinking age of 21 on two occasions, failed to go to his appointed place of duty at the prescribed time on two occasions, failed to wear the proper safety gear while near an airplane, was derelict in the performance of his duties by failing to follow technical order, and failed to maintain his dormitory room within minimum inspection standards. Furthermore Amn [REDACTED] failed to receive the proper rest prior to an extended drive which nearly caused him to have an accident and failed to render the appropriate customs and courtesies to retreat. This misconduct is evidenced by six Letters of Reprimand, two Article 15 actions, one Letter of Counseling, and an Unfavorable Information File.

b. The respondent's service should be characterized as general. The significant negative aspects of his conduct outweigh the positive aspects of his record. The respondent's service is not otherwise so meritorious that an Honorable Discharge is appropriate. On the other hand, the respondent's misconduct is not so severe as to warrant an under other than honorable conditions characterization. Separation is warranted because of the respondent's failure to comply with Air Force standards and because of his failure in all previous rehabilitative efforts.

c. Probation and rehabilitation are not appropriate in this case. The respondent's commander has already used rehabilitative tools without effect.

d. The respondent elected not to submit a statement after consulting counsel (Tab 2).

3. ERRORS AND IRREGULARITIES: None.

4. OPTIONS OF THE SPECIAL COURT-MARTIAL CONVENING AUTHORITY. You may:

FDCH-00129

- a. Retain the respondent in the Air Force; or
- b. Recommend to the General Court-Martial Convening Authority that the respondent be discharged because of misconduct, for the reasons stated by the commander, with an Honorable Discharge, with or without probation and rehabilitation; or
- c. Discharge the respondent because of misconduct, for the reasons stated by the commander, with a General Discharge, with or without probation and rehabilitation; or
- d. Direct the unit to reinstate the action to be processed under board hearing procedures if you determine an Under Other Than Honorable Conditions Discharge may be warranted.

If you determine retention or a General Discharge is appropriate, you are the final authority in this matter and your action will result in a final determination. If you recommend approval of an Honorable Discharge, you must forward the case file to the discharge authority, 8 AF/CC, along with a statement of reasons stating why the case warrants the issuance of such a characterization.

5. RECOMMENDATION: I find that the reasons listed in the commander's recommendation are sufficient to warrant discharge under AFI 36-3208, paragraph 5.50.2. Accordingly, I recommend that Amr [REDACTED] be discharged from the United States Air Force with a General Discharge without probation and rehabilitation.

[REDACTED]
Li Col, USAF
Staff Judge Advocate

Attachments:

1. CC App Ltr
2. Amr [REDACTED] Statement
3. Case File



DEPARTMENT OF THE AIR FORCE
27th COMPONENT REPAIR SQUADRON (ACC)
CANNON AIR FORCE BASE NEW MEXICO

13 JUN 2000

MEMORANDUM FOR [REDACTED] 27 CRS

FROM: CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, a pattern of misconduct prejudicial to good order and discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. Between on or about 8 May 00 and 18 May 00, you failed to obey a lawful order by failing to refrain from drinking alcohol while under the legal drinking age of 21. On or about 19 May 00, you failed to go to your appointed place of duty at the prescribed time. Also on or about 19 May 00, you were derelict in the performance of your duties in that you failed to wear the proper safety equipment while standing on an aircraft. The above misconduct is evidenced by an Article 15 action, dated 25 May 00, and an Unfavorable Information File entry, dated 12 Jun 00 (Atch 1a).

b. On or about 2 Mar 00, you were derelict in the performance of your duties by failing to follow technical order 1P-16C-2-28JG-201, as evidenced by a Letter of Reprimand, dated 3 Mar 00 (Atch 1b).

c. On or about 21 Oct 99, you failed to maintain your dormitory room within minimum inspection standards, as evidenced by a Letter of Reprimand, dated 21 Oct 99 (Atch 1c).

d. Between on or about 5 Sep 99 and 6 Sep 99, you were derelict in the performance of your duties by failing to refrain from drinking alcohol while under the legal drinking age of 21, as evidenced by an Article 15 action, dated 15 Sep 99, and an Unfavorable Information File, dated 20 Sep 99 (Atch 1d).

e. Between on or about 24 Aug 99 and 29 Aug 99, you failed to go to your appointed place of duty at the prescribed time, as evidenced by a Letter of Reprimand, dated 13 Sep 99, and an Unfavorable Information File, dated 21 Sep 99 (Atch 1e).

f. On or about 23 Jul 99, you failed to maintain your dormitory room within minimum inspection standards, as evidenced by a Letter of Reprimand, dated 23 Jul 99 (Atch 1f).

g. On or about 29 Jun 99, on two separate occasions you were derelict in the performance by failing to go to your appointed place of duty at the prescribed time and by failing to get the proper sleep prior to an extended drive, as evidenced by a Letter of Reprimand, dated 2 Jul 99 (Atch 1g).

h. On or about 26 May 00, you failed to obey a lawful order by bringing two unloaded firearms and 520 rounds of .22 caliber ammunition to your place of work, as evidenced by a Letter of Reprimand, dated 27 May 99 (Atch 1h).

i. On or about 6 May 99, you failed to render the appropriate customs and courtesies to retreat, as evidenced by a Letter of Counseling, dated 7 May 99 (Atch 1i).

3. 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. Special pay, bonuses, or education assistance funds may be subject to recoupment.

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], at building 600, ext. 2915, on 14 Jun 00 at 1000 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within 3 workdays from today unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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

7. You will complete a medical examination at the 27th Medical Group on 16 Jun 00 at 0730.

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 unit orderly room.

[REDACTED]
[REDACTED] JR, USAF
Commander

Attachments:
(Listed on next page)