

TYPE GEN	PERSONAL APPEARANCE		X RECORD REVIEW					
COUNSEL:	NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL					
YES	NO							
	X							
MEMBERS SITTING <div style="background-color: black; width: 100%; height: 100px; margin-top: 10px;"></div>			VOTE OF THE BOARD					
			HON	GEN	UOTHC	OTHER	DENY	
							X	
							X	
							X	
							X	
ISSUES A01.13 A92.01, AO.43		INDEX NUMBER A 67.10	EXHIBITS SUBMITTED TO THE BOARD					
HEARING DATE 090502		CASE NUMBER FD2001-0560		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				
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 Washington DC The applicant was scheduled for a personal appearance before the Discharge Review Board at Washington DC on September 5, 2002 but after acknowledging intent to appear failed to do so without requesting a postponement. 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. Advise the applicant of the decision of the Board and his right to submit an application to the AFBCMR								
SIGNATURE OF RECORDER <div style="background-color: black; width: 100%; height: 40px; margin-top: 5px;"></div>				SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 40px; margin-top: 5px;"></div>				
INDORSEMENT				DATE: 090902				
TO: SAI/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

FD2001-0560

GENERAL: The applicant appeals for upgrade of his discharge from general to honorable. The applicant was scheduled to appear before the Discharge Review Board at Washington DC on September 5, 2002 but after acknowledging intent to appear failed to do so without requesting a postponement.

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

FINDINGS: The applicant's request to upgrade his general discharge to honorable is denied. The board finds neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety which would justify a change to either the characterization of his discharge or a change to his reenlistment code.

Issue: The applicant was discharged with an under honorable conditions (general) discharge for minor disciplinary infractions on September 6, 1996. Member had five reprimands, two counselings and had been denied reenlistment before his commander elected to initiate discharge action. While in the service, he received two performance reports with overall ratings of 3 and 2. Both contain significant frontside markdowns. The record reveals the applicant, a Security Policeman, abused his authority to harass and intimidate personnel entering or working at McGuire AFB and that he had difficulty reporting to work in a timely fashion. Between 26 Mar 95 and 6 Sep 95, the respondent used his authority as a Security Policeman to ask a young woman inappropriate questions concerning her relationship with another, continually harassed her and reduced her to tears, and then arrested her for unsubstantiated offenses. On other occasions, the applicant failed to treat people he encountered in his role as a Security Policeman with respect, refused to listen to them, spoke in a threatening manner. Repeated counselings and reprimands failed to change his behavior. On four other occasions, the applicant's supervisor took administrative action after he failed to show up for work on time. The applicant claims that statements he submitted were not included with his records, that he was justified in the actions he took with respect to some of the incidents described above, and that his performance report is inconsistent with his true performance. Review of the file shows the notification the applicant received regarding the discharge action indicated he could submit matters for consideration but that he elected not to do so. While the Board noted the applicant's record does contain favorable information as documented by his performance reports, they found the seriousness of the willful misconduct and his repeated failure to report to work on time 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.

The Board also reviewed and considered the applicant's entire service record before making a decision.

CONCLUSIONS: The board concludes there is no legal or equitable basis to upgrade or change the applicant's discharge or re-enlistment code.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former AlC) (HGH AlC)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 96/09/06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 71/12/04. Enlmt Age: 21 6/12. Disch Age: 24 9/12. Educ: HS DIPL. AFQT: N/A. A-70, E-33, G-46, M-38. PAFSC: 3P032 - Law Enforcement Apprentice. DAS: 94/03/06.

b. Prior Sv: (1) AFRes 93/06/10 - 93/10/14 (4 months 5 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AlC 93/10/15 for 4 yrs. Svd: 02 Yrs 10 Mo 22 Das, all AMS.

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: none.

e. Additional: LOR, 04 APR 95 - Failure to go.
LOC, 05 MAY 95 - Failure to go.
LOR, 04 OCT 95 - Failure to go.
LOR, 15 NOV 95 - Failure to go.
MFR, 14 DEC 95 - Dereliction of duty.
LOR, 12 JAN 96 - Dereliction of duty.
LOR, 07 APR 96 - Failure to go.

f. CM: none.

g. Record of SV: 93/10/15 - 95/06/28 McGuire AFB 3 (Initial)
95/06/29 - 96/04/10 McGuire AFB 2 (CRO)

(Discharged from McGuire AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (03) Yrs (02) Mos (27) Das
TAMS: (02) Yrs (10) Mos (22) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/12/14.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Discharge Documents.
3. Two Letters of Appreciation.
4. 438 SPS/CCF Correspondence, 6 Jul 94.
5. Memorandum For Air Force One, 14 Feb 96.
6. Recommendation for Discharge.
7. Two Enlisted Performance Reports.

02/04/18/ia



DEPARTMENT OF THE AIR FORCE

305th Air Mobility Wing (AMC)

FD 2001-0560

30 AUG 1996

MEMORANDUM FOR 305 AMW/CC

FROM: 305 AMW/JA
2901 Falcon Lane
McGuire AFB, NJ 08641-5002

SUBJECT: Discharge Action Under AFI 36-3208, [REDACTED]
[REDACTED], 305 SPS, McGuire AFB, NJ - Action
Memorandum

1. This case is presented to the 305 AMW/CC for action as separation authority pursuant to AFI 36-3208, paragraph 5.49. On 29 Aug 96, the respondent's commander, 305 SPS/CC, initiated administrative discharge action against the respondent under AFI 36-3208, paragraph 5.49., Minor Disciplinary Infractions. The commander recommended the respondent be separated from the Air Force with a General Discharge without Probation and Rehabilitation (P&R). On 30 Aug 96, the respondent waived his right to consult with counsel and submit matters for your consideration (Atch 3). The discharge package is legally sufficient to support discharge under AFI 36-3208, paragraph 5.49.

2. As separation authority, you have the following options:

- a. Retain the respondent by terminating the discharge action and returning the discharge package back to the respondent's commander; or
- b. Direct the respondent be separated from the Air Force with an Honorable or General discharge with or without an offer of P&R.

3. FACTS:

a. Personal Data: The respondent is 24 years old. The respondent's current enlistment began on 15 Oct 93 for a term of 4 years. The respondent's TAFMSD is 15 Oct 93.

b. For the Government: A preponderance of the evidence establishes that the respondent has engaged in the following actions which interferes with respondent's assignment and/or duty performance:

<u>DATE</u>	<u>INCIDENT</u>	<u>ACTION BY UNIT</u>
6 Mar 95	Failure to go	LOR
4 May 95	Failure to go	LOC

6 Sep 95	Dereliction of duty	LOR
26 Mar 95	Dereliction of duty	LOR
15 Nov 95	Failure to go	LOR
17 Oct 95	Dereliction of duty	MFR
11 Jan 96	Dereliction of duty	LOR
3 Apr 96	Failure to go	LOR

c. For the Respondent: The respondent has two Enlisted Performance Reports (EPR) on file with the following overall ratings: 2 and 3. The respondent is authorized to wear the National Defense Service Medal and the Air Force Training Ribbon.

4. **ERRORS AND IRREGULARITIES**: This case has been processed in substantial compliance with AFI 36-3208. The respondent has been afforded all the due process rights and protections to which the respondent is entitled. The case file is legally sufficient to support discharging the respondent from the Air Force under the basis recommended by the initiating commander.

5. **DISCUSSION**: Airmen may be discharged for a pattern of misconduct consisting solely of Minor Disciplinary Infractions under AFI 36-3208, paragraph 5.49 when the infractions involve failure to comply with nonpunitive regulations or minor offenses under the UCMJ. Pursuant to AFI 36-3208, paragraph 1.17.3., service characterization is usually based on a pattern of behavior rather than an isolated incident and, according to paragraph 1.18.2., a general discharge is warranted when an airman's service has been honest and faithful but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. Probation and Rehabilitation (P&R) is not warranted in this case. [REDACTED] 305 SPS/CC, does not believe probation and rehabilitation is appropriate because [REDACTED] does not exhibit the ability to conform to established military standards.

6. **RECOMMENDATION:** I recommend you direct the respondent be separated from the United States Air Force with a General discharge without offering P&R. Should you concur, please sign the proposed order attached.

I concur.

Attachments:

1. Proposed Order
2. Case File



DEPARTMENT OF THE AIR FORCE
305th Air Mobility Wing (AMC)

FD 2001-0560

29 AUG 1996

MEMORANDUM FOR [REDACTED]

FROM: 305 SPS/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 AFD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation for discharge is approved, your service may be characterized as Honorable or General. I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. You did, at or near McGuire Air Force Base, New Jersey, on or about 6 Mar 95, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building #1738 in violation of Article 86, UCMJ, Failure to Go. You received a letter of reprimand for this on 4 Apr 95.

b. You did, at or near Fort Dix, New Jersey, on or about 4 May 95, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Walston Air Force Hospital in violation of Article 86, UCMJ, Failure to Go. You received a letter of counseling for this on 5 May 95.

c. You, who knew of your duties at or near McGuire Air Force Base, New Jersey, on or about 6 Sep 95, were derelict in the performance of those duties in that you willfully failed to conduct yourself in a professional manner, as it was your duty to do in violation of Article 92, UCMJ, Dereliction of Duty.

d. You, who knew of your duties at or near McGuire Air Force Base, New Jersey, on or about 26 Mar 95, were derelict in the performance of those duties in that you willfully failed to conduct yourself in a professional manner, as it was your duty to do in violation of Article 92, UCMJ, Dereliction of Duty. You received a letter of reprimand for the offenses listed in paragraphs c and d on 4 Oct 95.

e. You did, at or near McGuire Air Force Base, New Jersey, on or about 15 Nov 95, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building #1738 in violation of Article 86, UCMJ, Failure to Go. You received a letter of reprimand for this on 15 Nov 95.

f. You, who knew of your duties at or near McGuire Air Force Base, New Jersey, on or about 17 Oct 95, were derelict in the performance of those duties in that you willfully failed to conduct yourself in a professional manner, as it was your duty to do in violation of Article 92, UCMJ, Dereliction of Duty. You received a memorandum for record for this on 14 Dec 95.

g. You, who knew of your duties at or near McGuire Air Force Base, New Jersey, on or about 11 Jan 96, were derelict in the performance of those duties in that you willfully failed to conduct yourself in a professional manner, as it was your duty to do in violation of Article 92, UCMJ, Dereliction of Duty. You received a letter of reprimand for this on 12 Jan 96.

h. You did, at or near McGuire Air Force Base, New Jersey, on or about 3 Apr 96, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building #1738 in violation of Article 86, UCMJ, Failure to Go. You received a letter of reprimand for this on 7 Apr 96.

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.

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 with [REDACTED] the Area Defense Counsel, at Bldg 2906, Rm 33, on 3 Sep 96 at 1100 hrs. 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 by 4 Sep 96 (3 workdays from the date of this memorandum) 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 in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to Physical Exam on 29 Aug 96 (date) at 1300-1600 (time).

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 the squadron orderly room.

[REDACTED]
Commander

Attachments:

1. Letter of Reprimand, 4 Apr 95
2. AF Form 174, Record of Individual Counseling, 5 May 95
3. Letter of Reprimand, 4 Oct 95
4. Letter of Reprimand, 15 Nov 95
5. Memorandum for Record, 14 Dec 95
6. Letter of Reprimand, 12 Jan 96
7. Letter of Reprimand, 7 Apr 96