

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ████████████████████	<b>GRADE</b> AMN	<b>AFSN/SSAN</b> ██████████
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<b>TYPE GEN</b>	<b>X</b>	<b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
<b>NAME OF COUNSEL AND OR ORGANIZATION</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>	
<b>YES</b>	<b>No</b>		
	<b>X</b>		

<b>MEMBER SITTING</b>	<b>TYPE OF BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

<b>ISSUES</b> A94.11 A93.23 A93.15	<b>INDEX NUMBER</b> A67.10	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		<b>1</b> ORDER APPOINTING THE BOARD
		<b>2</b> APPLICATION FOR REVIEW OF DISCHARGE
		<b>3</b> LETTER OF NOTIFICATION
		<b>4</b> BRIEF OF PERSONNEL FILE
		COUNSEL'S RELEASE TO THE BOARD
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
		TAPE RECORDING OF PERSONAL APPEARANCE

<b>HEARING DATE</b> 13 Apr 2004	<b>CASE NUMBER</b> FD-2002-0010
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Case heard at Washington, D.C.

Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR.

<b>SIGNATURE OF RE...</b> ████████████████████	<b>SIGNATURE OF BOARD PR...</b> ████████████████████
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<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20742-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2002-0010**

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

The applicant was scheduled for a personal appearance before the Discharge Review Board (DRB) at Dobbins AFB, Georgia, in November, 2002, but did not respond to formal notification of the hearing date and failed to appear without requesting a postponement. The applicant was again scheduled for a personal appearance before the DRB at Fort Gillem, Georgia, in April 2004, but again failed to respond to formal notification of the hearing date and did not request a postponement.

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

**FINDINGS:** Upgrade of discharge is denied.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issue 1. Applicant contends he was singled out and disciplined due to his racial background and geographic upbringing. The records indicated the applicant was discharged for minor disciplinary infractions after receiving an Article 15, a vacation of suspended punishment, two Letters of Reprimand, six Records of Individual Counseling and two Memoranda for Record documenting misconduct. These documents were authored by seven different members of applicant's chain of command. His infractions included numerous instances of failure to go, dereliction of duty, stealing, and failing to pay just debts. Additionally, applicant had an Enlisted Performance Report rated an overall referral "2" that extensively documented his lack of maturity, poor judgment, inability to adapt to military life, and the negative effect he was having on his duty section. At the time of the discharge, applicant consulted counsel and submitted a statement requesting retention and cross-training, or in the alternative, an honorable discharge. The DRB was unable to find merit in applicant's claim of racial or cultural bias against him, and opined that through the unit's extensive administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issues 2 and 3. Applicant states that his discharge did not take into account the depression he suffered from as a result of his grandmother's, grandfather's, and aunt's death, all within a 1-year period. Applicant also inferred he was being treated for sleep disturbance, and noted he had been seen at the Mental Health clinic; he claimed his counselor didn't help him because the counselor also didn't understand his background, and that his first sergeant told him to "stick it out." However, applicant's service medical records were not available for review and no other inequity or impropriety in his discharge could be found in the course of reviewing the available records. The Board concluded the discharge was appropriate for the reasons which were its basis and applicant's misconduct appropriately characterized his 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/04/06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/06/30. Enlmt Age: 18 5/12. Disch Age: 20 9/12. Educ:HS DIPL. AFQT: N/A. A-58, E-46, G-36, M-65. PAFSC: 2A365 - Aircraft Pneudraulic Systems Apprentice. DAS: 98/12/09.

b. Prior Sv: (1) AFRes 97/12/08 - 98/06/09 (6 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 98/06/10 for 4 yrs. Svd: 01 Yrs 09 Mo 27 Das, all AMS.

b. Grade Status: AMN - 99/08/19 (Article 15, 99/08/19)

c. Time Lost: none.

d. Art 15's: (1) 99/11/05, Vacation, McConnell AFB, KS - Article 86. You did, on or about 15 Oct 99, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$250.00 pay per month for two months. (No appeal) (No mitigation)

(2) 99/08/19, McConnel AFB, KS - Article 121. You, did, on or about 23 Jul 99, steal merchandise, of a value of about \$174.94, the property of the ----- . Article 134. You, being indebted to ----- in the sum of \$155.00 for auto repair services, which amount became due and payable on 1 Aug 99, did, on or about 1 Aug 99, dishonorably fail to pay said debt. Reduction to Amn. Forfeiture of \$250.00 pay per month for two months (suspended until 18 Feb 99), and 45 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: MFR, 29 APR 99 - Failure to pay just debt.  
RIC, 18 MAY 99 - Failure to go.  
RIC, 24 MAY 99 - Failure to go.  
LOR, 28 MAY 99 - Failure to go.  
RIC, 26 JUL 99 - Failure to go.  
RIC, 20 SEP 99 - Failure to go.  
MFR, 30 SEP 99 - Failure to go.  
LOR, 21 DEC 99 - Dereliction of duty.

RIC, 21 DEC 99 - Dereliction of duty.  
RIC, 22 FEB 00 - Failure to go.

f. CM: none.

g. Record of SV: 98/06/10 - 00/02/09 McConnell AFB 2 (Initial)

(Discharged from McConnell AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (02) Yrs (03) Mos (29) Das  
TAMS: (01) Yrs (09) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/12/20.  
(Change Discharge to Honorable)

**ATCH**

1. Memorandum For 22 MSS/DPMPE, 21 Jan 00.
2. Memorandum for Record, 24 Jan 00.
3. Memorandum for Record, 14 Feb 00.
4. Memorandum for Record, 22 MXS/CC, 15 Oct 99.
5. AF Form 3545.
6. Letter of Reprimand, 21 Dec 99.
7. Personal Statement.
8. Medical Report.
9. Eight Training Certificates.
10. Report on Individual Person.
11. DD Form 214.

02/04/24/ia



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

MEMORANDUM FOR 22 ARW/CC

FROM: 22 ARW/JA

SUBJECT: Involuntary Discharge – Amn [REDACTED]

1. **FACTS AND CIRCUMSTANCES:** On 23 March 2000, Major [REDACTED] Commander of the 22d Maintenance Squadron, recommended that Amn [REDACTED] be involuntarily discharged from the United States Air Force pursuant to AFI 36-3208, paragraph 5.49, for minor disciplinary infractions. Maj [REDACTED] recommended that Amn [REDACTED] be given an under honorable conditions (general) discharge without probation and rehabilitation.

2. **EVIDENCE:**

a. Evidence for the Government. During his time in the Air Force, Amn [REDACTED] has engaged in a pattern of minor disciplinary infractions. A brief description of these infractions follows:

(1) On or about 5 Mar 99, Amn [REDACTED] was delinquent on his Deferred Payment Plan (DPP) in the amount of \$12.00. This is evidenced by a Memorandum from (AAFES), dated 29 Apr 99.

(2) On or about 14 May 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 18 May 99

(3) On or about 21 May 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 24 May 99.

(4) On or about 26 May 99 and on or about 28 May 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by a Letter of Reprimand (LOR), dated 28 May 99.

(5) On or about 23 Jul 99, Amn [REDACTED] stole merchandise, of a value of about \$174.94, the property of the Army and Air Force Exchange Service (AAFES). Also, on or about 1 Aug 99, he dishonorably failed to pay a just debt in the sum of \$155.00 to Premier Auto Sales. This is evidenced by an AF Form 3070 (Record of Nonjudicial Punishment Proceedings), dated 19 Aug 99.

(6) On or about 26 Jul 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 26 Jul 99.

(7) On or about 18 Sep 99 and on or about 20 Sep 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 20 Sep 99.

(8) On or about 27 Sep 99 and on or about 30 Sep 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by a Memorandum from MSgt [REDACTED] NCOIC, Pneudraulic Shop, dated 30 Sep 99.

(9) On or about 15 Oct 99, Amn [REDACTED] failed to go at the time prescribed to his appointed place of duty. This is evidenced by a LOR, dated 15 Oct 99 and an AF Form 366 (Record of Proceedings Vacation of Suspended Nonjudicial Punishment), dated 5 Nov 99.

(10) On or about 10 Oct 99, Amn [REDACTED] was derelict in the performance of his duties in that he had a female under the age of 18 in his dormitory room, in violation of Article 92 of the Uniform Code of Military Justice and MAFB Instruction 36-6005 (McConnell Air Force Base, Dormitory Standards). This is evidenced by a LOR, dated 21 Dec 99.

(11) On or about 17 Dec 99, Amn [REDACTED] was derelict in the performance of his duties in that he left work before returning all of his tools. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 21 Dec 99.

(12) On or about 15 Feb 00, Amn [REDACTED] failed to go to at the time prescribed to his appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 22 Feb 00.

b. Evidence for the Respondent. On 22 Mar 00, after consulting with legal counsel, Amn [REDACTED] submitted a written statement. In his statement, Amn [REDACTED] accepts responsibility for his actions. Amn [REDACTED], requests to be retained and retrained into another career field or, alternatively, that he receive an honorable discharge.

3. **DISCUSSION:** 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 numerous offenses listed above make Amn [REDACTED] subject to discharge under this provision.

b. Appropriateness of Discharge: AFI 36-3208, 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 Amn [REDACTED] 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. Amn [REDACTED] has committed numerous infractions during his brief time in the Air Force and most of these offenses relate to his utter inability to show up at work on time. It is likely that he will continue to commit offenses if retained, and, as a result would be unable to perform his duties effectively. In his statement, Amn [REDACTED] admits his conduct warrants a discharge. Discharge is appropriate in this case.

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. Amn [REDACTED] job performance and the series of offenses he has committed put him far below the level of acceptable conduct. His inability to show up at work on time negatively impacted the unit and demonstrates his disregard for good order and discipline. Amn [REDACTED] history of misconduct outweighs the positive aspects of his service and warrants an under honorable conditions (general) discharge.

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. Amn [REDACTED] has been given numerous opportunities to correct his behavior and comply with Air Force Standards, but, instead he has shown an unwillingness to respond to rehabilitation and learn from his mistakes. Despite the corrective efforts of his squadron and supervisors, he continued to commit further offenses. Amn [REDACTED] consistent history of offenses 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 Maj [REDACTED] recommendation. I recommend you sign the attached letter directing Amn [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] Captain, USAF  
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 Amn [REDACTED] I concur with the recommendations contained therein and adopt them as my own.

[REDACTED] Major, USAF  
Staff Judge Advocate





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

FD 2002-0010

17 MAR 00

MEMORANDUM FOR AMN [REDACTED]

FROM: 22 MXS/CC

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 will be characterized as either honorable or under honorable conditions (general). 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 5 Mar 99, delinquent on your Deferred Payment Plan (DPP) in the amount of \$12.00. This is evidenced by a Memorandum from (AAFES), dated 29 Apr 99.
  - b. You did, on or about 14 May 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 18 May 99
  - c. You did, on or about 21 May 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 24 May 99.
  - d. You did, on or about 26 May 99 and on or about 28 May 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by a Letter of Reprimand (LOR), dated 28 May 99.
  - e. You did, on or about 23 Jul 99, steal merchandise, of a value of about \$174.94, the property of the Army and Air Force Exchange Service (AAFES). Also, on or about 1 Aug 99, you dishonorably failed to pay a just debt in the sum of \$155.00 to Premier Auto Sales. This is evidenced by an AF Form 3070 (Record of Nonjudicial Punishment Proceedings), dated 19 Aug 99.
  - f. You did, on or about 26 Jul 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 26 Jul 99.

g. You did, on or about 18 Sep 99 and on or about 20 Sep 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 20 Sep 99.

h. You did, on or about 27 Sep 99 and on or about 30 Sep 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by a Memorandum MSgt [REDACTED] NCOIC, Pneudraulic Shop, dated 30 Sep 99.

i. You did, on or about 15 Oct 99, fail to go at the time prescribed to your appointed place of duty. This is evidenced by a LOR, dated 15 Oct 99 and an AF Form 366 (Record of Proceedings Vacation of Suspended Nonjudicial Punishment), dated 5 Nov 99.

j. You were, on or about 10 Oct 99, derelict in the performance of your duties in that you had a female under the age of 18 in your dormitory room, in violation of Article 92 of the Uniform Code of Military Justice and MAFB Instruction 36-6005 (McConnell Air Force Base, Dormitory Standards). This is evidenced by a LOR, dated 21 Dec 99.

k. You were, on or about 17 Dec 99, derelict in the performance of your duties in that you left work before returning all of your tools. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 21 Dec 99.

l. You did, on or about 15 Feb 00, fail to go to at the time prescribed to your appointed place of duty. This is evidenced by an AF Form 174 (Record of Individual Counseling), dated 22 Feb 00.

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. You are ineligible for reenlistment in the Air Force if your discharge is approved. \_

4. 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 20 MAR 00 at 0900 L. You can contact the ADC at ext. 4375. You may consult civilian counsel at your own expense.

5. You have the right to submit matters in your own behalf. Any statements you want the separation authority to consider must reach me by 22 MAR 00 at 1400 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.

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.

8. If you live in base housing, you must contact the housing office immediately upon receipt of this notification.
9. 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.



Major, USAF  
Commander, 22d Maintenance Squadron

Attachments:

1. Receipt of Notification Memorandum
2. Statement of Understanding
3. Memorandum, dated 29 Apr 99
4. AF Form 174, dated 18 May 99
5. AF Form 174, dated 24 May 99
6. LOR, dated 28 May 99
7. AF Form 3070, dated 19 Aug 99
8. AF Form 174, dated 26 Jul 99
9. AF Form 174, dated 20 Sep 99
10. Memorandum, dated 30 Sep 99
11. LOR, dated 15 Oct 99
12. AF Form 366, dated 5 Nov 99
13. LOR, dated 21 Dec 99
14. AF Form 174, dated 21 Dec 99
15. AF Form 174, dated 22 Feb 00