

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0053

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 the 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 that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 18 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

Issue 2. The information provided by the applicant and contained in his records was carefully reviewed by the DRB. The records indicated the applicant received three Letters of Reprimand, and one Record of Individual Counseling for misconduct. The misconduct included dereliction of duty, yelling profanity in formation, failure to maintain military dress and appearance standards, failed dorm inspections, failure to go on numerous occasions, lying to a non-commissioned officer, and damaging government property. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The DRB concluded that the characterization of the discharge received by the applicant was appropriate.

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, 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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/04/05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 82/06/16. Enlmt Age: 17 9/12. Disch Age: 18 9/12. Educ: HS DIPL. AFQT: N/A. A-51, E-51, G-46, M-50. PAFSC: 3E311 - Structural Helper. DAS: 01/10/02.

b. Prior Sv: (1) AFRes 00/03/25 - 00/08/08 (4 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/08/09 for 6 yrs. Svd: 00 Yrs 07 Mo 27 Das, all AMS.

b. Grade Status: A1C - 01/02/09.

c. Time Lost: none.

d. Art 15's: (1) none.

e. Additional: LOR, 02 MAR 01 - Failure to go.

LOR, 12 FEB 01 - Failure to go o/a 02 Feb 01; dereliction of duty o/a 7 Feb 01; failure to go o/a 7 Feb 01; failure to go o/a 9 Feb 01; lied to a noncommissioned officer o/a 9 Feb 01; failure to go o/a 12 Feb 01; dereliction of duty o/a 12 Feb 01.

RIC, 04 FEB 01 - Failure to go o/a 4 Feb 01; on 4 Feb 01, departed place of duty w/o proper authority; on or about 2 Feb 01, damaged government property on or about 2 Feb 01; violation of a lawful general instruction, to wit: SAFBI 36-2902, para 2.1.2.

LOR, 18 JAN 01 - Violate a lawful general instruction, to wit: SAFBI 36-2902, para 2.1.2; acting unprofessionally by yelling profanity in formation; failure to have Battle Dress Uniform (BDU) and boots in serviceable condition; failure to go o/a 4 Jan 01; on or about 28 Nov 00, fail to shave; failure to keep dorm room in inspection order at all times; security violation o/a 28 Nov 00.

f. CM: none.

g. Record of SV: none.

(Discharged from Sheppard AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (00) Mös (11) Das
TAMS: (00) Yrs (07) Mos (27) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/04/04.
(Change Discharge to Honorable)

Issue 1: I -----, am seeking a discharge upgrade. I have had time to reflect on what I have done. I realize that the actions I have taken in the past have not only affected myself, but also the people around me. I know that I have made some mistakes in the past, and for that I am very apologetic. The irresponsible acts I have committed (sic) have not only disgraced myself, but the United States Air Force, my training squadron, and my country. I also realized I needed to get my priorities straight. Since April 5th, I have tried my best to do that.

My dream has always been to join the Air Force and to be an officer and a pilot. Now, because of the irresponsible things I have done, I may not be able to follow that dream. That is why I am trying to upgrade my discharge, so I can prove myself, my family, and my country that I can do it.

I am asking that you review my files so I might have another chance to prove myself.

ATCH

1. DD Form 149.

02/05/20/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

3 Apr 01

MEMORANDUM FOR 782 TRG/CC

FROM: 82 TRW/JAC

SUBJECT: Legal Review, Recommendation for Discharge - A1C [REDACTED]
366 TRS, Det 6

1. We have reviewed this discharge case file and find it legally sufficient to support discharge in accordance with the provisions of **AFI 36-3208**. Based upon our review, we conclude that the incidents documented within this file sufficiently support A1C [REDACTED] discharge from the Air Force. We concur with the **366 TRS, Det 6/CC** that A1C [REDACTED] should be discharged with an under honorable conditions (general) discharge in accordance with **AFI 36-3208**, paragraph **5.49** (minor disciplinary infractions).

2. Basis for Action. On 22 Mar 01, the **366 TRS, Det 6/CC** notified A1C [REDACTED] that he was recommending that A1C [REDACTED] be discharged from the service due to his misconduct.

3. Evidence for the Commander. The preponderance of the evidence in the case file supporting the detachment commander's recommendation consists of the following:

a. The respondent did, at or near Gulfport MS, on or about **28 Feb 01**, fail to go to his appointed place of duty at the prescribed time, to wit: physical conditioning at 1830. For this misconduct, he received a Letter of Reprimand (LOR) on 2 Mar 01.

b. The respondent did, at or near Gulfport MS, on or about 2 Feb 01, fail to go to his appointed place of duty at the prescribed time, to wit: mandatory study at 1400. For this misconduct and subparagraphs "c" through "i" below, he received an LOR on 12 Feb 01.

c. The respondent, who knew or should have known of his duties at Gulfport MS, on or about 7 Feb 01, was derelict in the performance of those duties in that he failed to complete his assigned homework.

d. The respondent did, at or near Gulfport MS, on or about 7 Feb 01, fail to go to his appointed place of duty at the prescribed time, to wit: TSgt [REDACTED] office at 0730.

e. The respondent did, at or near Gulfport MS, on or about 9 Feb 01, fail to go to his appointed place of duty at the prescribed time, to wit: TSgt [REDACTED] office at 0730

f. The respondent did, at or near Gulfport MS, on or about 9 Feb 01, lie to a noncommissioned officer.

g. The respondent, who knew of his duties at Gulfport MS, on or about 9 Feb 01, was derelict in the performance of those duties in that he failed to complete his assigned homework.

h. The respondent did, at or near Gulfport MS, on or about 12 Feb 01, fail to go to his appointed place of duty at the prescribed time, to wit: TSgt [REDACTED] office at 0730.

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i. The respondent, at or near Gulfport MS, on or about 12 Feb 01, was derelict in the performance of those duties in that he failed to complete his assigned homework.

j. The respondent did, at or near Gulfport MS, on or about 4 Feb 01, fail to go to his appointed place of duty at the prescribed time, to wit: mandatory study at 1400. For this misconduct and subparagraphs "k" through "m" below, he received an AF Form 174, Record of Individual Counseling, on 5 Feb 01.

k. The respondent did, at or near Gulfport MS, on or about 4 Feb 01, depart his place of duty without proper authority.

l. The respondent did, at or near Gulfport MS, on or about 2 Feb 01, damage government property by defacing a welding booth.

m. The respondent did, at or near Gulfport MS, on or about 2 Feb 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.2, by failing to carry at least two properly filled out AETC Forms 341, Excellence/Discrepancy **Report**, at all times.

n. The respondent did, at or near Gulfport MS, on or about 15 Jan 01 and on or about 16 Jan 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 5.2.5, by failing to return to and remain in his assigned dormitory from 2200-0400 Sunday through Thursday and return and remain in quarters from 2300 until 0400 Friday and Saturday. For this misconduct and subparagraphs "o" and "p" below, he received an LOR on 18 Jan 01.

o. The respondent did, at or near Gulfport MS, on or about 17 Jan 01, act unprofessionally by yelling profanity in physical conditioning formation.

p. The respondent did, at or near Gulfport MS, on or about 18 Jan 01, violate a lawful general instruction, to wit: AFI 36-2903, Table 2.2, Line 1, 2, and 4, by failing to have his Battle Dress Uniform and boots in serviceable condition..

q. The respondent did, at or near Gulfport MS, on or about 4 Jan 01, fail to go to his appointed place of duty at the prescribed time, to wit: Charge of Quarters. For this misconduct, he received an AF Form 174 on 8 Jan 01.

r. The respondent did, at or near Gulfport MS, on or about 28 Nov 00, violate a lawful general instruction, to wit: AFI 36-2903, Table 1.4, Line 1, by failing to shave. For this misconduct and subparagraphs "s" and "t" below, he received an AF Form 174 on 4 Dec 00.

s. The respondent did, at or near Gulfport MS, on or about 28 Nov 00, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.3, by failing to keep his dormitory room in inspection order at all times.

t. The respondent did, at or near Gulfport MS, on or about 28 Nov 00, have a security violation.

4. Additional Information. The respondent is 18 years old, began his present enlistment on 9 Aug 00, and was assigned to his unit on 2 Oct 01. His ASVAB scores are as follows: A - 51,

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E - 51, G - 46, and M - 50. The respondent is entitled to wear the Air Force Training Ribbon. He has waived his right to consult with counsel and has waived his right to submit statements for your consideration.

5. We note no administrative errors and concur with the detachment commander's recommendation for an under honorable conditions (general) discharge.

6. In accordance with AFI 36-3208, your options are to:

- a. Direct A1C [redacted] retention;
- b. Suspend ~~an~~ under honorable conditions (general) discharge and recommend Probation and Rehabilitation;
- c. Direct his discharge with an under honorable conditions (general) discharge; **or**
- d. Recommend that A1C [redacted] be discharged with an honorable discharge. If you determine **an** honorable discharge is appropriate, this file must be forwarded to 2 AF/CC since **only** a General Court-Martial Convening Authority may approve an honorable discharge characterization when the basis for discharge is misconduct (AFJ 36-3208, paragraph 5.48.4).

7. If you have any questions regarding this matter, please contact Capt [redacted] at ext 6-7186.

[redacted] Major, USAF
Deputy Staff Judge Advocate

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

22 Mar 01

1 ORA JDUM FOR A1C [REDACTED], FR [REDACTED], 366 TRS, DET 6

FROM: 366 TRS, DET 6/CC
5510 CBC 8TH STREET
GULFPORT MS 39501

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 is approved, your services will be characterized as an honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reason for this action are:

a. You did, at or near Gulfport MS, on or about 28 Feb 01, fail to go to your appointed place of duty at the prescribed time, to wit: physical conditioning at 1830. For this misconduct you received a Letter of Reprimand (LOR) on 2 Mar 01.

b. You did, at or near Gulfport MS, on or about 2 Feb 01, fail to go to your appointed place of duty at the prescribed time, to wit: mandatory study at 1400. For this misconduct and subparagraphs "c" through "i" below, you received an LOR on 12 Feb 01,

c. You, who knew or should have known of your duties at Gulfport MS, on or about 7 Feb 01, were derelict in the performance of those duties in that you failed to complete your assigned homework.

d. You did, at or near Gulfport MS, on or about 7 Feb 01, fail to go to your appointed place of duty at the prescribed time, to wit: TSgt [REDACTED] office at 0730.

e. You did, at or near Gulfport MS, on or about 9 Feb 01, fail to go to your appointed place of duty at the prescribed time, to wit: TSgt [REDACTED] office at 0730

f. You did, at or near Gulfport MS, on or about 9 Feb 01, lied to a noncommissioned officer.

g. You, who knew of your duties at Gulfport MS, on or about 9 Feb 01, were derelict in the performance of those duties in that you failed to complete your assigned homework.

h. You did, at or near Gulfport **MS**, on or about 12 Feb 01, fail to go to your appointed place of duty at the prescribed time, to wit: TSgt [REDACTED] office at 0730.

i. You, who knew of your duties at Gulfport **MS**, on or about 12 Feb 01, were derelict in the performance of those duties in that you failed to complete your assigned homework.

j. You did, at or near Gulfport **MS**, on or about 4 Feb 01, fail to go to your appointed place of duty at the prescribed time, to wit: mandatory study at 1400. For this misconduct and subparagraphs "**k**" through "**m**" below, you received an AF Form 174, Record of Individual counseling, on 5 Feb 01.

k. You did, at or near Gulfport **MS**, on or about 4 Feb 01, depart your place of duty without proper authority.

l. You did, at or near Gulfport **MS**, on or about 2 Feb 01, damage government property by defacing a welding booth.

m. You did, at or near Gulfport **MS**, on or about 2 Feb 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.2, by failing to carry at least two properly filled out AETC Forms 341, Excellence/Discrepancy Report, at all times.

n. You did, at or near Gulfport **MS**, on or about 15 Jan 01 and on or about 16 Jan 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 5.2.5, by failing to return to and remain in your assigned dormitory from 2200 to 0400, Sunday through Thursday. Return to and remain in quarters from 2300 until 0400, Friday and Saturday. For this misconduct and subparagraphs "**o**" and "**p**" below, you received an LOR on 18 Jan 01.

o. You did, at or near Gulfport **MS**, on or about 17 Jan 01, act unprofessionally by yelling profanity in physical conditioning formation.

p. You did, at or near Gulfport **MS**, on or about 18 Jan 01, violate a lawful general instruction, to wit: AFI 36-2903, Table 2.2, line 1, 2, and 4, by failing to have your Battle Dress Uniform (BDU) and boots in serviceable condition.

q. You did, at or near Gulfport **MS**, on or about 4 Jan 01, failed to go to your appointed place of duty at the prescribed time, to wit: charge of quarters briefing. For this misconduct you received an AF Form 174 on 8 Jan 01.

r. You did, at or near Gulfport **MS**, on or about 28 Nov 00, violate a lawful general instruction, to wit: AFI 36-2603, Table 1.4, line 1, by failing to shave. For this misconduct and subparagraphs "**s**" and "**t**" below, you received an AF Form 174 on 4 Dec 00.

s. You did, at or near Gulfport **MS**, on or about 28 Nov 00, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.3, by failing to keep your dormitory room in inspection order at all times.

- t. You did, at or near Gulfport MS, on or about 28 Nov 00, you had a security violation.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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 and probably be denied enlistment in any component of the armed forces. **Any** special pay, bonus, or education assistance funds may be subject to recoupment.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. You are scheduled to contact the Area Defense Counsel, Keesler AFB, 377-3722, at 1600 hrs on 22 Mar 01. You may consult civilian counsel at your own expense.


4. You have the right to submit statements in your own behalf. **Any** statements you want the separation authority to consider must reach me by 27 Mar 01 unless you request and receive **an** extension for good cause shown. I will send them 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 medical examination on 26 Mar 01. You must report to the Keesler Medical Center, Adult Ambulatory Care Clinic with your medical records.

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 the 366th Training Squadron, Det 6, Unit Personnel Office.

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


Com [redacted] der, Major, USAF

Attachments

1. LOR, 2 Mar 01
2. 366 TRS DET 6/CFF Memo, 8 Mar 01
3. LOR, 12 Feb 01
4. 366 TRS DET 6/CFF Memo, 15 Feb 01
5. AF Form 174, 5 Feb 01
6. LOR, 18 Jan 01
7. AF Form 174, 8 Jan 01
8. AF Form 174, 4 Dec 01
9. AETC Form 125A, 12 Mar 01
10. AETC Form 156, CL2001004