

PERSONAL APPEARANCE		X RECORD REVIEW										
<table border="1"> <tr> <th colspan="2">COUNSEL</th> </tr> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td></td> <td>X</td> </tr> </table>		COUNSEL		YES	NO		X	NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL		
COUNSEL												
YES	NO											
	X											
MEMBERS SITTING				VOTE OF THE BOARD								
				HON	GEN	UOHC	OTHER	DENY				
								X				
								X				
								X				
								X				
ISSUES A94.05		INDEX NUMBER A67.10		EXHIBITS SUBMITTED TO THE BOARD								
HEARING DATE 25 JUL 02		CASE NUMBER FD2002-0074		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 RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE												
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.												
INDORSEMENT				DATE: 25 Jul 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 COMMANDER, DE WING, 3RD FLOOR									

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0074

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

ISSUE: Applicant contends discharge was inequitable because it was too harsh in that he was not discharged for any serious violations, just minor disciplinary actions. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received two Article 15's for failure to keep in effect a current automobile liability policy and forging a notice that an automobile liability policy was in effect for his vehicle; and wrongfully possessing, with intent to deceive, a DoD vehicle decal and wrongfully attaching to his vehicle a plate that was not assigned to that vehicle. In addition, the applicant also received two Letters of Reprimand for failure to pay his government credit card bill and for leaving his appointed place of duty without permission. The DRB observed that by virtue of his length of service, the applicant was entitled to a discharge board. The record, however, indicates that he was not offered a discharge board. The DRB concluded that the failure to offer the applicant a discharge board was a harmless error in that given the totality of the circumstances this oversight did not amount to an impropriety or inequity. After reviewing the applicant's military record, all of the evidence of misconduct in the case, and the rest of the documentation in the file, the DRB found that had the applicant presented his case to a discharge board, the result would have been the same—separation with a general characterization. In other words, the applicant was not harmed and his rights not prejudiced by the inability to present his case to a discharge board. The Board found no evidence of impropriety or inequity in the case on which to base an upgrade of discharge. The DRB opined that through these 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 concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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

[REDACTED]

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/01/23 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, to Change the Reason and Authority for Discharge, and to Change the RE Code. Disch.

2. **BACKGROUND:**

a. DOB: 75/03/02. Enlmt Age: 19 9/12. Disch Age: 25 10/12. Educ:HS DIPL. AFQT: N/A. A-86, E-43, G-42, M-42. PAFSC: 1T151 - Aircrew Life Support Journeyman. DAS: 97/03/28.

b. Prior Sv: (1) AFRes 94/12/09 - 94/12/28 (20 days) (Inactive).

(2) Enlisted as AB 94/12/29 for 4 yrs. Extended 97/11/05 for 12 months. Svd: 3 yrs 7 months 3 days, all AMS. AMN-(EPR Indicates): 94/12/29-96/08/28. A1C - 97/12/28. SRA - 96/04/29. EPRs: 2(REF), 5,5.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as SRA 98/08/02 for 4 yrs. Svd: 02 Yrs 05 Mo 21 Das, all AMS.

b. Grade Status: A1C - 00/11/30 (Article 15, 00/11/30).

c. Time Lost: none.

d. Art 15's: (1) 00/11/30, Offutt AFB, NE - Article 134. You did, at Offutt AFB, NE, a place under exclusive jurisdiction, between on or about 16 Sep 00 to on or about 20 Nov 00, fail to keep in effect a current automobile liability policy or file proof financial responsibility for your ----- in violation of Section 60, Paragraph 312 of the Revised Statutes of Nebraska, assimilated into Federal Law by 18 U.S. Code Section 13. You did, at Offutt AFB, NE, a place under exclusive jurisdiction, on or about 16 Sep 00 to on or about 20 Nov 00, forge a notice that an automobile liability policy was in

deceive a certain instrument purporting to be a DD Form 2220, Department of Defense Registered Vehicle Decal numbered TQF012, that was affixed to your 1998 -----, then well knowing the same to be unauthorized. You did, at or near Offutt AFB, Nebraska, a place under exclusive jurisdiction, on or about 22 Oct 99, wrongfully attach to or display a Nebraska vehicle number plate IE9690, a number plate assigned for the current registration period to a -----, on an unlicensed -----, in violation of Section 6, paragraph 323, of Revised Statutes of Nebraska Annotated assimilated into Federal law by 18 U.S. Code Section 13. Reduction to AIC (suspended until 28 May 00, and 15 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 20 NOV 00 - Failure to pay debt.
LOR, 20 OCT 99 - Leaving appointed place of duty with out permissions.
- f. CM: none.
- g. Record of SV: 97/11/02 - 98/11/01 Offutt AFB 3 (Annual)
98/11/02 - 99/11/01 Offutt AFB 2 (Annual)REF
99/11/02 - 00/11/01 Offutt AFB 4 (Annual)
- (Discharged from Offutt AFB)
- h. Awards & Decs: AFAM, AFLSAR, AFTR, NDSM, AFOUA W/1 DEV, AFGCM W/1 DEV.
- i. Stmt of Sv: TMS: (06) Yrs (01) Mos (14) Das
TAMS: (06) Yrs (00) Mos (25) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/02/10.
(Change Discharge to Honorable, Change the Reason and Authority for Discharge, and Change the RE Code.)

Issue 1: I am asking for this upgrade because I am looking to get back into active duty service. With the current RE Code I can not enlist into any military service. Also, I am asking for this upgrade because I didn't get discharged for any serious violations they were minor disciplinary actions over a 1 year period. If given a second chance at active duty I will make this commitment one hundred percent better than my first active duty experience.

FD 2002-0074



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 375th AIRLIFT WING (AMC)

105 JAN 2001

MEMORANDUM FOR 375 AW/CC

FROM: 375 AW/JA

SUBJECT: Legal Review of Administrative Discharge - [REDACTED]
311 ALF

1. I have reviewed [REDACTED] Administrative Discharge Package and find it legally sufficient. This discharge is for minor disciplinary infractions IAW AFI 36-3208, para 5.49. I recommend you approve the discharge with an under honorable conditions (General) service characterization.

2. Basis for Action: On 19 December 2000, [REDACTED] commander, [REDACTED] notified him of his decision to initiate administrative discharge proceedings for Minor Disciplinary Infractions IAW AFI 36-3208, paragraph 5.49. [REDACTED] acknowledged receipt of Notification Memorandum on 19 December 2000. He has consulted with counsel and has elected not to submit a statement for your consideration. (Atch C). [REDACTED] recommended [REDACTED] be discharged with a General service characterization.

3. Fact Summary: [REDACTED] is 25 years old and entered the Air Force on 29 December 1994 for a period of 4 years. He has been on continuous active duty since that date. He reenlisted on 02 March 1998 for a period of 4 years. No prior inactive service is indicated. [REDACTED] is authorized to wear the Air Force Achievement Medal, the Air Force Outstanding Unit Award with one device, the National Defense Service Medal, the Air Force Longevity of Service Award, and the Air Force Training Ribbon. [REDACTED] is requesting that [REDACTED] be discharged for the following reasons:

a. Between on or about 16 Sep 00 to on or about 20 Nov 00, [REDACTED] failed to keep a current automobile liability policy or file proof of financial responsibility for his motor vehicle.

c. On or about 25 Oct 99, [REDACTED] wrongfully possessed, with intent to deceive, a certain instrument purporting to be a DD Form 2220, Department of Defense Registered Vehicle Decal. Additionally, on or about 22 Oct 99, [REDACTED] wrongfully attached to or displayed a vehicle number plate assigned to a Honda Civic on an unlicensed Hyundai Tiburon. For these offenses, [REDACTED] received an Article 15, dated 17 Nov 99. (Atch A-3).

d. On or about 19 Oct 99, [REDACTED] left his appointed place of duty without permission from his supervisor or the commander. For this offense, [REDACTED] received a Letter of Reprimand (LOR), dated 20 Oct 99. (Atch A-4).

4. Discussion:

a. AFI 36-3208, paragraph 6.2.2 specifies that a member is entitled to a board hearing where he or she has 6 years or more of total active and inactive military service at the time the discharge processing starts. Although [REDACTED] had 6 years of total active service on 29 December 2000, because discharge proceedings began on 19 December 2000, when the Notification was served, [REDACTED] is not board entitled and the Notification Procedure is the appropriate means for processing his discharge.

b. Under AFI 36-3208, paragraph 5.49, members may be discharged for Minor Disciplinary Infractions. [REDACTED] unit took extensive rehabilitative measures to correct his behavior and help him meet his financial responsibilities, as detailed in the Notification Letter. (Atch A). Despite the unit's efforts, [REDACTED] is clearly unwilling to conform to minimum Air Force standards and discharge is appropriate.

c. AFI 36-3208, paragraph 5.49, authorizes an honorable or an under honorable conditions (General) discharge, or an under other than honorable conditions (UOTHC) discharge characterization. [REDACTED] has recommended [REDACTED] receive a General discharge. A General service characterization is appropriate when the quality of the airman's service generally has met Air Force standards of acceptable conduct and performance of duty. In light of [REDACTED] history of misconduct, a General service characterization is appropriate in this case.

6. Probation and Rehabilitation (P&R): The use of P&R is authorized in this case under AFI 36-3208, Chapter 7. However, [REDACTED] misconduct was properly dealt with through the progressive use of disciplinary measures. He has not responded to the unit's attempts to rehabilitate him and thus P&R would is not appropriate in this case. [REDACTED] has recommended that P&R is not appropriate in this case.

c. Retain the respondent in the Air Force.

8. Recommendation: I recommend that you discharge [REDACTED] from the Air Force with a General discharge, without probation and rehabilitation, by signing the attached letter.

[REDACTED]

[REDACTED] Capt, USAF
Chief, Adverse Actions

I concur.

[REDACTED]

[REDACTED] Lt Col, USAF
Staff Judge Advocate

Attachments:
Proposed 375 AW/CC Ltr w/Atchs
(Case file)

19 Dec 00

MEMORANDUM FOR AIC [REDACTED], 311 ALF [REDACTED]

FROM: 311 ALF/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions according to AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.49. This action could result in your separation with an honorable or an under honorable conditions (general) discharge. If my recommendation is approved, your service will be characterized as general.

2. My reasons for this action are:

a. Between on or about 16 Sep 00 to 20 Nov 00 you failed to keep a current automobile liability policy or file proof of financial responsibility for your motor vehicle. In addition, between on or about 16 Sep 00 and 20 Nov 00 you forged a notice that an automobile policy was in effect for your motor vehicle. For these offenses, you received an Article 15, dated 27 Nov 00 (Atch 1)

b. On or about 20 Nov 00 you were delinquent on your Government Travel Card in the amount of \$90.00. For this offense you received a Letter of Reprimand (LOR) dated 20 Nov 00. (Atch 2).

c. On or about 25 Oct 99 you wrongfully possessed with intent to deceive, a certain instrument purporting to be a DD Form 2220, Department of Defense Registered Vehicle Decal. Additionally, on or about 22 Oct 99 you wrongfully attached to or displayed a vehicle number plate assigned to a Honda Civic on an unlicensed Hyundai Tiburon. For these offenses you received an Article 15, dated 17 Nov 99. (Atch 3).

d. On or about 19 Oct 99, you left your appointed place of duty without permission from your supervisor or the commander. For this offense you received a Letter of Reprimand (LOR), dated 20 Oct 99. (Atch 4).

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

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me with in 3 duty days of your receipt of this letter 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 must report to the Physical Examinations Section with your medical records for a doctor to determine if further action is required.
8. You will report to the Transportation Management Office (TMO), Outbound Assignments, to complete a Personal Property Appointment Sheet. That worksheet must be completed and returned to TMO as soon as you receive your separation orders.
9. You will report before close of business tomorrow (or the next duty day) to Special Actions at Military Pay to make arrangements for your final pay-out.
10. 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.



Lt Col, USAF

Commander

Attachments:

1. Article 15, dated 27 Nov 00
2. LOR, dated 20 Nov 00
3. Article 15, dated 17 Nov 99
4. LOR, dated 20 Oct 99
5. Airman's Acknowledgement