

TYPE		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	UOHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.21, A94.05	INDEX NUMBER A67.50	EXHIBITS SUBMITTED TO THE BOARD			
		1	ORDER APPOINTING THE BOARD		
		2	APPLICATION FOR REVIEW OF DISCHARGE		
		3	LETTER OF NOTIFICATION		
HEARING DATE 12 JUN 02	CASE NUMBER FD2002-0078	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

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
INDORSEMENT	DATE: 12 JUN 02

TO: SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4712	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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD02-0078

GENERAL The applicant appeals for upgrade of discharge to Honorable and to change the reason and authority for discharge

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 does not contest his discharge. He states that he has served his country for over 10 years honorable, with the exception of the events that surrounded his discharge and he alludes to all his post service activities. The record indicates that the applicant received an Article for unlawfully carrying a concealed weapon and for being disorderly. He also received four Letters of Reprimand (LOR) for fighting, taking a female, not his wife, into bed in unaccompanied quarters, failure to provide accurate contact information on a recall roster, and failure to pay just debts. An Administrative Discharge Board found the applicant guilty on the Article 15 charge and the first LOR, fighting. He was found Not Guilty on the other three LORs. The DRB took note of the applicant's duty performance as documented by his performance reports, and other information contained in the records. 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. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was found in the course of the hearing. The Board concluded the misconduct of the applicant 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

(Former SSGT) (HGH SSGT)

MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 96/08/22 UP AFI 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement With Military Or Civil Authority). Appeals for Honorable Discharge and to Change the Reason and Authority for Disch.

BACKGROUND:

a. DOB: 67/08/25. Enlmt Age: 17 11/12. Disch Age: 28 11/12. Educ: Bachelor Degree. AFQT: N/A. A-87, E-75, G-59, M-76. PAFSC: 4N071 - Medical Service Craftsman. DAS: 93/11/16.

b. Prior Sv: (1) AFRes 85/07/29 - 85/10/31 (3 months 2 days) (Inactive).

(2) Enlisted as AB 85/11/01 for 4 yrs. Extended 89/01/31 for 3 months. Reenlisted 89/09/28 for 4 yrs. Extended 96/02/12, for 1 month. Extended 93/02/12 for 12 months. Svd: 8 yrs 8 months 26 days, all AMS. AMN-(APR Indicates): 85/11/01-86/10/31. A1C-(APR Indicates): 86/11/01-87/10/31. SRA-(APR Indicates): 88/05/10-89/03/01. SGT-(EPR Indicates): 89/03/02-90/03/01. SSGT - 94/01/01. APRs: 7,7,8,9. EPRs: 4,5,5,5,5.

SERVICE UNDER REVIEW:

a. Reenlisted as SSGT 94/07/27 for 4 yrs. Svd: 02 Yrs 00 Mo 25 Das, all AMS.

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: (1) 96/06/20, McConn 11 AFB, KS - Article 134. You did, on or about 13 Jul 95, unlawfully carry on or about your person a concealed weapon, to wit: a loaded Tec-DC9 Semi-Automatic Assault Pistol. You were, on or about 13 Jul 95, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to SrA (suspended until 17 Dec 96), 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 23 DEC 95 - Fighting.
 LOR, 23 SEP 94 - Taking female (not his wife) into bed in unaccompanied quarters.
 LOR, 27 MAR 95 - Failure to provide accurate contact information on recall roster.
 LOR, 04 NOV 94 - Failure to pay just debts.

f. CM: none.

g. Record of SV: 93/08/02 - 94/08/01 McConnell AFB 3 (Annual)
 94/08/02 - 95/04/13 McConnell AFB 3 (CRO)
 95/04/14 - 96/04/13 McConnell AFB 3 (Annual) REF

(Discharged from McConnell AFB)

h. Awards & Decs: AFAM 2/2 DEVS, AFLSAR W/1 DEV, AFTR, AFOSLTR, NDSM, NCOPMER, AFOUA W/VALOR W/1 DEV, AFGCM 2/1DEV.

i. Stmt of Sv: TMS: (11) Yrs (00) Mos (24) Das
 TAMS: (10) Yrs (09) Mos (22) Das

4. BASIS **ADVANCED** FOR REVIEW: Appln (DD Fm 293) dtd 02/01/23.
 (Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

LETTER ATTACED TO BRIEF.

ATCH

1. Letter to the Discharge Review Board, 23 Jan 01.
2. DD **Form** 214.
3. DD Form 149.
4. Congressional Correspondence, 29 Jan 02.
- t. Privacy Act Release, 24 Jan 02.
6. Character Reference.
7. Certificate of Appreciation.
8. Associate of Science Degree.
9. Bachelor of Science Degree.
10. Certificate **of** Completion.

02/05/20/ia

23 January 2002

Board for Correction of Air Force Records
SAF/MIB
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

Dear Board for Correction of Air Force Records,

I, [REDACTED] am writing this letter in hopes to have my Air Force discharge upgraded for the following reasons:

1. I have served my country for over ten years honorably, with the exception of the events that surrounded my discharge.
2. I have contributed positively to the community as a role model and mentor by tutoring elementary children during my free time.
3. I have obtained an associate degree with honors as well as a Bachelors degree with honors.
4. I have donated my resources to the Red Cross to help other people who may have a need in a crisis.
5. I have climbed the corporate ladder outside of the military at an exceptional rate due to my focus on life re-alignment after my discharge.
6. I now see the mistake I have made and now wish to correct that mistake.

First, after looking back, I faithfully served my country for over ten years. During that time I married and had a beautiful son who drew my focus to become a great father. However the marriage ended and I was misguided. My feelings were not the same because I thought that marriage was forever. During the period of my divorce my ex-wife made things more difficult than my normal. Not to point blame, but I am only human and situations such as divorce has a very negative effect on someone trying to raise a child for the first time.

Second, I have contributed positively to the community by being a mentor and role model. Having a child gives me the strength to teach other children learn and to help the teaching society focus on children that do not require as much time for learning. I enjoy dedicating my time for a positive cause. My son is far ahead of many children in the school he attends and my tutoring shows him that sharing is a valuable quality.

Third, I have obtained two degrees, with honors since my discharge. I received an Associate of Science and a Bachelors of Science. This shows that I now have regained focus on life and have decided to maintain a positive focus.

Fourth, I have become a donator for the Red Cross. After working in the health care profession during the last seven plus years of my military career, I can see how this can help people during unexpected disasters of their lives. I have always valued my fellow persons, and now have a venue to help them positively.

Fifth, since my discharge I have climbed the corporate ladder to take a position in management within a four-year period. Many people in the "civilian" work force spend years to grasp a position like this. I manage one of the newest business jets in the world and have worked closely with the United States Air Force and The United States Navy to provide the next generation military training airplanes, the new JPATS.

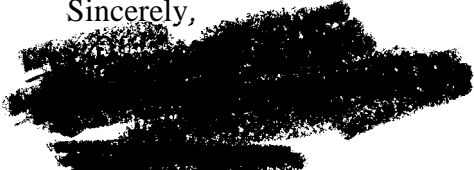
With all this in mind, I now see that it takes years to **come** to rest with an unidentified mistake in my life. I have since re-married and expect **another** child. I **am** elated to have the life I now have and feel that **I** do not ever have to worry about my past problem. My son has grown to be a wonderful asset in my life. My wife enhances life to the fullest and my expected child can only prosper from my life experiences.

Please take the time to carefully review my request. I do whole-heartedly believe that you will understand that my positive **focus** will be beneficial. Not **many** people look at life the way **I** do, and I do believe the saying that you learn by your mistakes.

Please feel free to contact me with any concerns that pertain to this request and thank you in advance for taking the time to review my request.

A large, dark, irregularly shaped redaction mark covering the signature area.

Sincerely,

A large, dark, irregularly shaped redaction mark covering the signature area.



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

21 Aug 96

MEMORANDUM FOR 22 ARW/CC

FROM: 22 ARW/JA

SUBJECT: Involuntary [REDACTED]

1. **FACTS AND CIRCUMSTANCES** On 17 July 1996, [REDACTED] received notification from [REDACTED] Commander of the 22d Medical Operations Squadron, recommending [REDACTED] be involuntarily discharged from the United States Air Force pursuant to AFI 36-3208, paragraph 5.50.1 for discreditable involvement with military or civil authorities. [REDACTED] recommended that [REDACTED] receive an Unfavorable Conditions (UC) discharge. [REDACTED] acknowledged receipt of the notification letter on 17 July 1996, and subsequently requested a board. On 31 July 1996, a board of commissioned officers convened to determine [REDACTED] discharge. The board determined [REDACTED] be discharged from the Air Force pursuant to AFI 36-3208, paragraph 5.50.1, with a General (Under Honorable Conditions) discharge and that he not be placed on probation and rel

2. **EVIDENCE:**

a. Evidence for the Government:

(1) [REDACTED] received a Letter of Reprimand (Gov Exhibit 13) for having a partially dressed female, not his wife, hiding in his wall locker. [REDACTED] (former first sergeant) and [REDACTED] (his former wife) testified concerning this incident. The Government also entered into evidence an incident report and two witness statements concerning the incident.

(2) The Government introduced a Letter of Reprimand [REDACTED] received for failing to pay his rent on time (Gov Exhibit 17).

(3) The Government introduced a Letter of Reprimand [REDACTED] received for failing to give correct information on a recall roster (Gov Exhibit 16).

(4) The Government introduced an Article 15 [REDACTED] received for carrying a concealed weapon in his vehicle and for disorderly conduct. (Gov Exhibit 11) Three Wichita Police Officers and an OSI agent testified regarding this incident. The weapon itself was placed into evidence. (Gov Exhibit 19). The Wichita Police report (Gov Exhibit 8) and two victim statements (Gov Exhibits 9 and 10) were also introduced into evidence.

(5) The Government introduced a Letter of Reprimand (Gov Exhibit 7) [REDACTED] received for beating his girlfriend. This included photos of the bruises suffered by the girlfriend.

(6) [REDACTED] all testified concerning [REDACTED] poor rehabilitative potential.

(7) Lastly, the Government submitted SSgt Andrews' EPRs (Gov Exhibit 18). The three most recent EPRs are an overall 3, with the previous EPRs being an overall 5.

b. Evidence for the Respondent:

(1) The Respondent submitted four character references (Res Exhibits L, M, N, and O).

(2) SSgt Jennifer I. Andrews also testified for the Respondent concerning the Letter of Reprimand SSgt Andrews received for failing to pay his rent on time.

(3) Ms. Conicka Thomas testified concerning the incident involving the concealed weapon and the disorderly conduct.

(4) The Respondent made an unsworn statement and introduced his three citations for the Air Force Achievement Medals (Res Exhibits F, G and H).

(5) The Respondent introduced three positive performance feedback records completed by Capt Susan Drennon in 1995 and 1996 (Res Exhibits I, J and K).

3. **DISCUSSION.** In my opinion, the evidence in the file is factually and legally sufficient to support the board's recommendation that SSgt Andrews be involuntarily discharged from the Air Force prior to the expiration of his term of service for discreditable involvement with military or civil authorities.

a. Basis for Discharge. The board determined that SSgt Andrews was disorderly when he engaged in a fight with Conicka Thomas and that his conduct was of a nature to bring discredit upon the armed forces. They also found that he carried a concealed weapon in his vehicle. Based upon these two findings they recommended that he be discharged. While the board determined that he did not commit the remaining allegations, these two acts are legally sufficient to justify a General (Under Honorable Conditions) discharge.

b. Discharge Characterization. Pursuant to AFI 36-3208, Section B, paragraph 1.18.2, a member's service should be characterized as General (Under Honorable Conditions) if the airman's service has been honest and faithful but significant negative aspects of the airman's conduct or performance outweigh the positive aspects of the airman's military record. Considering the guidance provided in AFI 36-3208 and the adequate on duty performance of the Respondent, a General (Under Honorable Conditions) is appropriate. Because the Board did not recommend an Under Other Than Honorable Conditions discharge, you do not have this option of directing this type of discharge.

c. Probation and Rehabilitation. AFI 36-3208, paragraph 7.5, indicates that you, the separation authority, may offer probation and rehabilitation if you deem that it is appropriate. The board recommended against probation and rehabilitation. Given the severity of the acts, we also do not recommend probation and rehabilitation.

d. Your Options. As the Special Court-Martial Convening Authority, you may:

(1) Direct that SSgt Andrews be discharged with an Honorable or General (Under Honorable Conditions) discharge, with or without probation and rehabilitation; or

(2) Retain [REDACTED]

4. RECOMMENDATION:

a. Considering all of the evidence in the case and the recommendation of the board, I recommend that you sign the attached letter directing that [REDACTED] be discharged from the United States Air Force with a General (Under Honorable Conditions) discharge pursuant to **AFI 36-3208**, paragraph **5.50.1**, without further probation and rehabilitation.

b. If you have any questions or require additional information, I can be reached at 3590.

[REDACTED]
Capt, USAF
Deputy Staff Judge Advocate

I have carefully reviewed the foregoing legal opinion. I concur with the recommendations contained therein and adopt them as my own.

[REDACTED]
Maj, USAF
Staff Judge Advocate

Attachments:

- 1. Letter Directing Discharge
- 2. **AFI 36-3208** Discharge Package
- 3. Record of Discharge Proceedings

FD 2002-0078



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

17 Jul 96

MEMO TO: [REDACTED]

FROM: 22 MDOS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for Discreditable Involvement with Military or Civil Authorities according to AFPD 36-32 and AFI 36-3208, paragraph 5.50.1. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is:

a. You were, on 23 December 1995 in Wichita, Kansas, disorderly, in that you engaged in a fight with [REDACTED] which misconduct was of a nature to bring discredit upon the armed forces, as evidenced by Wichita Police Department incident report number 95C120317, dated 23 December 1995, and 6 photographs of injuries to you and [REDACTED] taken on 23 December 1995. You received a letter of reprimand for this misconduct, dated 28 May 96.

b. You were, on 13 July 1995 in Wichita, Kansas, disorderly, in that you wrongfully communicated death threats to [REDACTED] and threatened [REDACTED] with a deadly weapon, which misconduct was of a nature to bring discredit upon the armed forces, as evidenced by Wichita Police Department incident report 95C065274, dated 13 July 1995; the additional information reports of officers [REDACTED], the summarized, sworn testimony of Officer [REDACTED] dated 8 February 1996; the summarized, sworn testimony of Special Agent [REDACTED], dated 8 February 1996; the sworn statement of [REDACTED] dated 8 December 1995; and the sworn statement of [REDACTED], dated 7 August 1995. You received nonjudicial punishment for this offense, as evidenced by AF Form 3070 (Record of Nonjudicial Punishment Proceedings) dated 10 Jun 96.

c. You did, at or near Wichita, Kansas, on or about 13 Jul 95, unlawfully carry on or about your person a concealed weapon, to wit: a Tec-DC9 Semi-Automatic Assault Pistol, as evidenced by Wichita Police Department incident report number 95C065274, dated 13 July 1995, the additional information reports of officers [REDACTED] and Fort, the summarized, sworn testimony of Officer [REDACTED], dated 8 February 1996, and a Tec-DC9 semi-automatic assault pistol with case, magazine, and 9-millimeter rounds, seized fi-om your

automobile on 13 July 1995; you received nonjudicial punishment for this offense, as evidenced by an AF Form 3070 (Record of Nonjudicial Punishment Proceedings) dated 10 Jun 96.

d. You did, on 7 Sep 94, take [REDACTED] a female who is not your wife, into your bed in your unaccompanied NCO quarters, as evidenced by an Air Force Form 3545 (Incident Report) dated 7 September 1994, and an AF Form 1168 (Statement of Suspect/Witness/Complainant) completed by [REDACTED] dated 7 Sep 94. For this misconduct you received a letter of reprimand dated 23 September 1994, which was placed into an Unfavorable Information File on 4 November 1994.

e. You did, between on or about 27 Feb 95 and 15 Mar 95, fail to provide accurate contact information on your unit recall roster and on your AF Form 988 (Leave Form) as evidenced by an AF Form 1058 dated 27 Mar 95, a letter of reprimand dated 27 Mar 95, and a copy of the Acute Care Clinic Staff Phone Roster.

f. You did, between on or about 6 August 1994 and 31 October 1994, at the Buttonwood Tree living complex, dishonorably fail to pay your debts when due, as evidenced by a letter from Buttonwood Tree apartments dated 31 Oct 94. For this misconduct you received a letter of reprimand dated 4 Nov 94, which was placed into an unfavorable information file on 4 Nov 94.

3. This action could result in your separation with **an** under other than honorable conditions (UOTHC) discharge. I am recommending that you receive an under other than honorable conditions (UOTHC) discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for two mandatory medical exams. You are to report to the 22d Medical Group Physical Exams section on 24 Jul 96 at 0730 and 1040. Your appointment will be with [REDACTED]. Take your records with you. If you wear glasses take them with you. If you wear contacts have them out 12 hours prior to the exam.

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6. Military legal counsel, [REDACTED] Area Defense Counsel (ADC), Little Rock Air Force Base, Arkansas, has been detailed to assist you. I have scheduled a telephone appointment for you to consult him on 23 Jul 96 at 0900. You can reach him at DSN 731-3260. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 52-201. In addition to or instead of military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the right you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with the recommendations. If you fail to respond, your failure will constitute a waiver of the right to a board hearing.

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 squadron orderly room.

9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

10. The discharge board or, the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).

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

[REDACTED]
Commander, 22d Medical Operations Squadron

Attachments:

1. WPD95C120317, 23 Dec 95
2. 6 Photos
3. LOR, 28 May 96
4. WPD95C065274, 13 Jul 95
5. Fatkin Testimony, 8 Feb 96
6. Culver Testimony, 8 Feb 96
7. AF Form 1168, 8 Dec 95
8. AF Form 1168, 7 Aug 95
9. AF Form 3070, 10 Jun 96
10. LOR, 19 Jun 96
1. AF Form 3545, 7 Sep 94

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13. LOR, 23 Sep 94
14. AF Form 1058, 4 Nov 94
15. AF Form 1058, 27 Mar 95
16. LOR, 27 Mar 95
17. Phone Roster
18. MFR, 31 Oct 94
19. LOR, 31 Oct 94
20. Airman's Receipt of Notification Memorandum