

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]								
TYPE X PERSONAL APPEARANCE		RECORD REVIEW									
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION [REDACTED]		ADDRESS AND OR ORGANIZATION OF COUNSEL Texas Veteran's Commission									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">COUNSEL</td> <td style="width: 50%;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	YES	NO	X					
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION										
YES	NO										
X											
MEMBERS SITTING		VOTE OF THE BOARD									
		HON	GEN	UOHC	OTHER	DENY					
		X*									
		X*									
		X*									
		X*									
ISSUES A93.02		INDEX NUMBER A67.10		EXHIBITS SUBMITTED TO THE BOARD							
HEARING DATE 9 SEP 02		CASE NUMBER FD2002-0109		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 Randolph AFB, Texas Discharge is upgraded to Honorable under Secretarial Authority, SPD code JFF. * RE Code upgraded to 3K. Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR.											
SIGNATURE OF RECORDER [Signature]			SIGNATURE OF BOARD PRESIDENT [Signature]								

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0109

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Randolph AFB, TX on September 9, 2002. The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions.

Exhibit 6: Statement from [REDACTED] (applicant's father)

Exhibit 7: Daughter's birth certificate

Exhibit 8: Letter of recommendation from Texas Youth Commission dated 29 August, 2002

Exhibit 9: Letter and certificate of service, Texas Youth Commission

Exhibit 10: Letter, character reference, St Johns Catholic Church

Exhibit 11: Letter, character reference, [REDACTED]

Exhibit 12: Alcohol Dependency Completion Certificate

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

FINDINGS: Upgrade of discharge to Honorable is granted.
Reason for discharge is changed to Secretarial Authority.
Request to upgrade reenlistment code is granted.

The Board finds that the evidence of record and that provided by the applicant substantiates an impropriety and inequity that justifies upgrade of the discharge.

ISSUES: The applicant was discharged with a General Discharge for Misconduct – Minor Disciplinary Infractions. Member received three Article 15's for being disorderly, wrongfully consuming alcoholic beverages while under the age of 21 (twice), and for being drunk. Applicant states that he made a poor choice when he indulged in alcohol while underage. The DRB noted that misconduct of this nature cannot be condoned by commanders. However, based on the evidence of the record, evidence submitted by the applicant, and testimony, the Board concluded that the applicant's discharge and characterization of service was inequitable. The Board noted that documentation of disciplinary counseling was sub-optimal. The applicant's attitude regarding his military service and remarkable post service accomplishments favorably influenced the board's consideration of the facts surrounding his discharge.

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. However, in view of the foregoing findings, the Board also concludes that the overall quality of applicant's service is more equitably reflected by an Honorable discharge. The applicant's characterization for discharge should be changed to Honorable under the provisions of Title 10, USC 1553, the reason for discharge changed to Secretarial Authority and the reenlistment code upgraded.

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

[REDACTED]

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 96/08/06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 76/01/02. Enlmt Age: 19 9/12. Disch Age: 20 7/12. Educ:HS DIPL. AFQT: N/A. A-87, E-80, G-74, M-85. PAFSC: 2A531H - Aerospace Maintenance Apprentice. DAS: 95/06/22.

b. Prior Sv: none.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 95/02/02 for 4 yrs. Svd: 01 Yrs 06 Mo 05 Das, all AMS.

b. Grade Status: AB - 96/04/15 (Article 15, 96/04/15)
AMN - Unknown

c. Time Lost: none.

d. Art 15's: (1) 96/05/08, McGuire AFB, NJ - Article 134. You, were, on or about 23 Apr 96, disorderly. Forfeiture of \$437.00 pay per month for 2 months, 45 days extra duty, and 60 days restriction (in excess of 45 days restriction suspended). (Appeal/Denied) (No mitigation)

(2) 96/04/15, McGuire AFB, NJ - Article 92. You, did, on or about 10 Mar 96, violate a lawful general instruction to wit: AFI 34-119, para 1.1.2., dated 25 Jul 94, by wrongfully consuming alcoholic beverages while under the age of 21, the legal age to drink alcohol, in the state of New Jersey. Reduction to AB, forfeiture of \$50.00 pay, 14 days extra duty, and 14 days restriction. (No appeal) (No mitigation)

- e. Additional: none.
- f. CM: none.
- g. Record of SV: none.

(Discharged from McGuire AFB)

- h. Awards & Decs: AFTR, NDSM.
- i. Stmt of Sv: TMS: (01) Yrs (06) Mos (05) Das
TAMS: (01) Yrs (06) Mos (05) Das

- 4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/05.
(Change Discharge to Honorable)

Issue 1: I was a hard worker and fast learner. I made a poor choice when I indulged in alcohol, underage. I'm no longer underage and gave up drinking all together. I am ready to serve my Country again.

ATCH

1. Veterans Service Center Cover Letter.
2. DD Form 214.
3. Verification of Military Experience and Training.
4. College Transcript.
5. Four Certificates of Training.

02/06/24/ia



FD 2002-0109
DEPARTMENT OF THE AIR FORCE
305th Air Mobility Wing (AMC)

31 Jul 96

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], 605 AGS, 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 30 Jul 96, the respondent's squadron section commander, 605 AGS/CCQ, 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 an General discharge without Probation and Rehabilitation (P&R). On 30 Jul 96, the respondent elected to waive his right to consult with counsel and also waived his right to submit matters for your consideration. 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 General discharge with or without an offer of P&R; or
- c. Forward the case file to the 21 AF/CC with a recommendation that he separate the respondent with an Honorable discharge with or without P&R.

3. FACTS:

b. For the Government: A preponderance of the evidence establishes that the respondent committed the following acts and received the following disciplinary actions during the respondent's current term of service:

<u>DATE</u>	<u>INCIDENT</u>	<u>ACTION BY UNIT</u>
23 Apr 96	Disorderly conduct in violation of Article 134	Forfeiture of \$437 pay for two months, 45 days extra duty, and restriction to base for 45 days.
10 Mar 96	Under age drinking in violation of Article 92	Forfeiture of \$50, 14 days extra duty, reduction to AB)
19 Nov 95	Under age drinking in violation of Article 92	Forfeiture of \$50 pay for two months, 14 days extra duty, and suspended reduction to AB

The information above should be considered in deciding whether the respondent is subject to discharge, whether the respondent should be discharged, and if discharged, the appropriate service characterization.

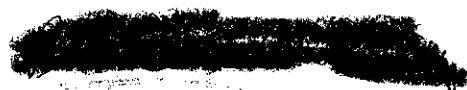

c. For the Respondent: The respondent waived his right to submit a statement for your consideration. The respondent has no Enlisted Performance Reports (EPR's). The respondent has received the National Defense Service Medal and Air Force Training Ribbon.

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, although he chose not to exercise them. 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: An airman is subject to discharge under AFI 36-3208, paragraph 5.49 for a pattern of misconduct consisting solely of minor disciplinary infractions during the current enlistment. Infractions under this section may involve failure to comply with nonpunitive regulations or minor offenses under the UCMJ, and as a rule, result in formal or informal counselings, Letters of Reprimand, or nonjudicial punishment under Article 15, UCMJ. AFI 36-3208, paragraph 1.18.2 states that if an airman's service has been honest and faithful, a General discharge is warranted when significant negative aspects of the airman's conduct or

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


, Major, USAF
Chief of Military Justice

I concur.


 Col, USAF
Staff Judge Advocate

Attachments:

1. Proposed Order
2. Case File



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

PD 2002-0109

MEMORANDUM FOR [REDACTED]

30 July 96

FROM: 605 AGS/CCQ

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 AFPD 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 were on or about 23 Apr 96, at or near McGuire Air Force Base, New Jersey, disorderly, in violation of Article 134, UCMJ, Disorderly Conduct. You received a Article 15 on 8 May 96 for this offense, consisting of a forfeiture of \$437.00 pay per month for 2 months, 45 days extra duty, and restriction within the confines of McGuire AFB/Ft Dix, NJ for 45 days

b. You did, on or about 10 Mar 96, at or near McGuire Air Force Base, New Jersey, violate a lawful general instruction to wit: AFI 34-119, paragraph 1.1.2., dtd 25 Jul 94, by wrongfully consuming alcohol beverage while under the age of 21, the legal age to drink alcohol, in the state of New Jersey, in violation of Article 92, UCMJ, Failure to Obey Order or Regulation. For this offense you received a Article 15 on 15 Apr 96, consisting of a forfeiture of \$50.00 pay, 14 days extra duty, and a reduction to the grade of E-1, with a new date of rank of 15 Apr 96.

c. You did, on or about 19 Nov 95, at or near McGuire Air Force Base, New Jersey, violate a lawful general instruction to wit: AFI 34-119, paragraph 1.1.2., dtd 25 Jul 94, by wrongfully consuming alcohol beverage while under the age of 21, the legal age to drink, in violation of Article 92, UCMJ, Failure to Obey Order or Regulation and for being drunk, in violation of Article 134, UCMJ, Drunkenness. For this offense you received a Article 15 on 5 Dec 95, consisting of a forfeiture of \$50.00 pay per month for 2 months, 14 days extra duty, and a reduction to the grade of E-1 suspended until 4 Jun 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 31 July 96 at 0930hrs. You may consult civilian counsel at your own expense.

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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.



2nd Lt, USAF
Squadron Section Commander

Attachments:

1. Article 15 w/atchs, dtd 8 May 96
2. Article 15 w/atchs, dtd 15 Apr 96
3. Article 15 w/atchs, dtd 5 Dec 95
4. Airman's Acknowledgment of Notification Memorandum