

GEN		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		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD	
A94.53, A93.37, A67.01		A67.10		1	ORDER APPOINTING THE BOARD
				2	APPLICATION FOR REVIEW OF DISCHARGE
				3	LETTER OF NOTIFICATION
HEARING DATE		CASE NUMBER		4	BRIEF OF PERSONNEL FILE
02-08-20		FD2002-0117			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		SIGNATURE OF BOARD PRESIDENT			
[REDACTED]		[REDACTED]			
INDORSEMENT		DATE: 02-08-20			
TO:		FROM:			
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742		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			

AFHQ FORM 0-2077, JAN 00

(EF-V2)

Previous edition will be used.

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0117

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

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant was discharged for minor disciplinary infractions. He had three Letters of Counseling, two Letters of Reprimand, an Article 15, and an Unfavorable Information File. Member also had a referral "2" Enlisted Performance Report that cited his inability to adjust to military life, negative outlook, and behavior problems. His misconduct included two instances of failure to go, multiple incidents of dereliction of duty, a quarters violation, and failure to obey a lawful order. These incidents of misconduct occurred during the period June 1994 to July 1995. Member was also sent to the Airman Career Awareness Program due to his disciplinary problems. At the time of the discharge, after consulting counsel, member submitted a statement in his own behalf explaining his interpretation of what happened regarding each incident and requesting an honorable discharge so he could use his Montgomery G.I. Bill education benefits. He also submitted four character statements. Applicant brings no issues to this Board now. The Board noted that member was age 22 to 24 when his misconduct occurred, the same age as other airmen who adhere to the standards, and he knew right from wrong. He was mature and responsible for his actions, was held accountable for those. He was counseled repeatedly and given numerous opportunities to improve his behavior but failed to respond to those rehabilitative efforts. No inequity or impropriety was found in this discharge in the course of the records review.

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 A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 95/10/26 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 70/12/23. Enlmt Age: 20 4/12. Disch Age: 24 10/12. Educ: HS DIPL.
AFQT: N/A. A-54, E-96, G-90, M-98. PAFSC: 4T051 - Medical Lab Journeyman.
DAS: 93/08/26.

b. Prior Sv: (1) AFRes 91/04/30 - 92/04/06 (11 months 7 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 92/04/07 for 4 yrs. Svd: 03 Yrs 06 Mo 20 Das, all AMS.

b. Grade Status: A1C - 95/07/24 (Article 15, 95/07/24)
SRA - (EPR Indicates): 94/07/01-95/06/30
A1C - (EPR Indicates): 92/04/07-93/12/23
AMN - 93/02/07

c. Time Lost: none.

d. Art 15's: (1) 95/07/24, McClellan AFB, CA - Article 86. You did, on or about 30 Jun 95, without authority, fail to go to your appointed place of duty, to wit: base parade, McClellan AFB, California. Article 92. You, having knowledge of a lawful order issued by MSgt ----- to report to base parade, an order which it was your duty to obey, did, on or about 30 Jun 95, fail to obey the same by wrongfully absenting yourself from the base parade at McClellan AFB, California. Reduction to A1C. (No appeal) (No mitigation)

e. Additional: LOC, 26 MAY 95 - Failure to go.
LOR, 06 JUL 95 - Dereliction of duty.
LOR, UNDATED - Violation of quarter policy.
LOC, 19 SEP 94 - Failure to obey the order of an NCO.
LOC, 17 JUN 94 - Dereliction of duty.

f. CM: none.

g. Record of SV: 92/04/07 - 93/12/23 McClellan AFB 3 (Initial)
93/12/24 - 94/06/30 McClellan AFB 4 (CRO)
94/07/01 - 95/06/30 McClellan AFB 2

(Discharged from McClellan AFB)

h. Awards & Decs: AFTR, NDSM, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (05) Mos (27) Das
TAMS: (03) Yrs (06) Mos (20) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/03/06.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
none.

02/06/27/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SACRAMENTO AIR LOGISTICS CENTER (AFMC)
McCLELLAN AIR FORCE BASE, CALIFORNIA

17 Oct 95

MEMORANDUM FOR 77 ABW/CC

FROM: SM-ALC/JA

SUBJECT: Legal Review, Administrative Discharge, [REDACTED]

1. INITIATION OF ACTION: On 4 Oct 95, the commander, 77 MD^BOS, recommended that A1C [REDACTED], the respondent, be discharged from the Air Force under AFI 36-3208, paragraph 5.49, for minor disciplinary infractions. The commander recommends a general discharge and does not recommend probation and rehabilitation (P&R).

2. RESPONDENT: The respondent is a 24 year old male who has served 42 months of his first four-year enlistment. He has three completed EPRs with overall ratings, from most recent, of 2, 4, and 3. Respondent is not entitled to a board hearing. After consultation with counsel, the respondent submitted a written statement asking you to give him an honorable discharge so he can still qualify for the Montgomery GI bill. The respondent also includes excuses for each incident of misconduct. The respondent included several letters of recommendation.

3. DISCUSSION:

a. Basis for Discharge: AFI 36-3208, paragraph 5.49, authorizes discharge of an airman for a pattern of misconduct consisting of failure to comply with nonpunitive regulations or minor offenses under the UCMJ. In this case, there is clearly enough evidence to establish such a pattern of misconduct:

(1) On or about 30 Jun 95, the respondent failed to report for duty at the appointed time, for which he received an Article 15.

(2) On or about 26 May 95, the respondent failed to report for duty at the appointed time, for which he received a letter of counseling.

(3) Between on or about 6 May 95 and on or about 26 Jun 95, the respondent failed to complete certain job duties, for which he received a letter of reprimand and an unfavorable information file entry.

(4) On or about 18 Sep 94, the respondent left his quarters to attend a movie after being ordered to remain in quarters for his health, for which he received a letter of reprimand.

(5) On or about 13 Sep 94, the respondent disobeyed a lawful order, for which he received a letter of counseling.

(6) On or about 16 Jun 94, the respondent failed to complete certain job duties, for which he received a letter of counseling.

The nature and frequency of the respondent's misconduct satisfy the intent of paragraph 5.49, and thus establish a basis to discharge the respondent.

b. Appropriateness of Discharge: Both the nature and frequency of respondent's misconduct bring into question respondent's willingness to comply with Air Force standards. The respondent repeatedly failed to report when he was supposed to report and does not seem to understand the importance of completing his duties and following orders. A letter of recommendation submitted by the respondent notes that "he could not adapt to military life." The respondent has been given numerous opportunities to turn his behavior around, but he has continued his misconduct. Administrative discharge is appropriate under paragraph 5.49.

c. Characterization of Service: AFI 36-3208, paragraph 1.18.1, authorizes an honorable discharge when the airman's service has otherwise been so meritorious that any other characterization would be inappropriate, while paragraph 1.18.2 states that a general discharge is more appropriate when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. Finally, paragraph 1.18.3 states that an Under Other Than Honorable Conditions (UOTHC) discharge is appropriate when the airman's conduct significantly departs from the conduct expected of airmen. Under AFI 36-3208, paragraph 5.49, a general discharge is assumed and an honorable or UOTHC discharge must be approved through the general court-martial convening authority. Taken as a whole, a general discharge most closely fits the respondent's performance and misconduct. A pattern of misconduct creates significant negative aspects to an airman's career. Here, the respondent's misconduct easily outweighs the positive aspects of his military career. His EPRs are mediocre and his misconduct directly relates to his work performance.

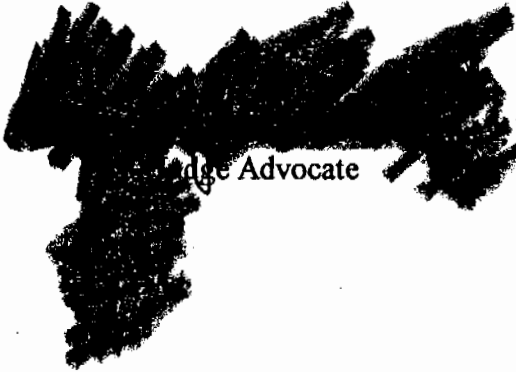
d. Probation & Rehabilitation: Probation and rehabilitation (P&R) is reserved for those cases where an airman could change his ways through counseling and rehabilitation. Although available here under AFI 36-3208, the variety and frequency of the offenses committed by the respondent suggests that P&R is not appropriate. Further, the respondent has already been given plenty of time to change his conduct, but is unable or unwilling to do so. He was given discipline from counseling through an Article 15, yet nothing persuaded him to change his pattern of misconduct.

e. Legal Sufficiency: This discharge package is legally sufficient.

4. 77 ABW/CC OPTIONS: As special court-martial authority you may:

- a. Retain the respondent in the Air Force.
- b. Direct reinitiation of the discharge under a different provision.
- c. Discharge the respondent with a general discharge, with or without P & R.
- d. Refer the case to the general court-martial convening authority with a recommendation for an honorable or under other than honorable conditions discharge, with or without P & R.


5. RECOMMENDATION: I recommend that you discharge the respondent with a general discharge under AFI 36-3208, paragraph 5.49, without P & R.



edge Advocate

USAF

Attachment:

 Discharge Package



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS SACRAMENTO AIR LOGISTICS CENTER (AFMC)
McCLELLAN AIR FORCE BASE, CALIFORNIA

FD2002-0117

4 Oct 95

MEMORANDUM FOR A1C [REDACTED], 77 MDSS

FROM: 77 MDSS/CC

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 service will be characterized as Honorable or General (Under Honorable Conditions). I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. You did, on or about 30 Jun 95, without authority, fail to go to your appointed place of duty at the time prescribed. For this you received an Article 15 dated 21 Jul 95.

b. You did, on or about 26 May 95, without authority, fail to go to your appointed place of duty at the time prescribed. For this you received a Letter of Counseling dated 26 May 95.

c. You did, between on or about 6 May 95 and on or about 26 Jun 95, fail to complete the required test panels on several chemistry specimens. For this you received a Letter of Reprimand, undated and AF Form 1058 dated 6 Jul 95 establishing an Unfavorable Information File (UIF).

d. You did, on or about 18 Sep 94, violate quarter policy which was that you were to remain at your place of residence with the exception of going to the dining hall, base exchange or commissary, by attending a movie at an off-base theater. For this you received a Letter of Reprimand undated.

e. You did, on or about 13 Sep 94, or on or about 16 Sep 95, failed to obey the order of an NCO when told to come in and complete your blood bank testing. For this you received a Letter of Counseling dated 19 Sep 94.

f. You did, on or about 16 Jun 94, fail to perform the RPR Serology work required for a next-day PREOP. For this you received a Letter of Counseling dated 17 Jun 94.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court Martial (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 and 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. I have made an appointment for you to consult Capt [REDACTED] at Bldg 3 on 5 Oct 95 at 0830 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me by 10 Oct 95, 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. You must report to USAF Clinic, McClellan AFB, Bldg 98, at 0715 hours on 11 Oct 95, for the examination.

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 Orderly Room.

[REDACTED], Major, USAF
Commander, 77th Medical Services Squadron

Attachments:

1. Article 15, 21 Jul 95
2. Letter of Counseling, 26 May 95
3. AF Form 1058, 6 Jul 95 w/LOR
4. Letter of Reprimand, Undated
5. Letter of Counseling, 19 Sep 94
6. Letter of Counseling, 17 Jun 94
7. 77 MDG/CCF Ltr, 23 Sep 94, ACAP