

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
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
ISSUES A94.05		INDEX NUMBER A67.90		EXHIBITS SUBMITTED TO THE BOARD	
HEARING DATE 22 AUG 02		CASE NUMBER FD2002-0126		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, and the right to submit an application to the AFBCMR.					
SIGNATURE OF RECORDER [REDACTED]			SIGNATURE OF BOARD PRESIDENT [REDACTED]		
INDORSEMENT				DATE: 22 AUG 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 1335 COMMAND DR, EF WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002		

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0126

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 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: The applicant believes his discharge was inequitable because it was too harsh. The record indicates the applicant received two Article 15's for being absent from his unit, failure to call his supervisor, failure to return to duty, and with intent to defraud, falsely pretended to be employed by the Secret Service and by stating that he was a GS-15 and impersonating a commissioned officer of the Air Force. He also received a Vacation action on one of the Article 15's by falsely pretending to be employed by the Secret Service. In addition, he received a Letter of Reprimand for missing 3 medical appointments. The DRB 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. No inequity or impropriety in his discharge was suggested or found in the course of the records review. His misconduct was a significant departure from conduct expected of all military members. The Board concluded that the character and reason for discharge were appropriate due to his misconduct.

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 or change the reason for 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

[REDACTED]
[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/12/23 UP AFI 36-3208, para 5.50.2 (Pattern of Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 76/04/14. Enlmt Age: 19 11/12. Disch Age: 23 8/12. Educ: HS DIPL. AFQT: N/A. A-55, E-50, G-37, M-44. PAFSC: 2T251 - Air Transportation Journeyman. DAS: 96/10/30.

b. Prior Sv: (1) AFRes 96/04/03 - 96/05/22 (1 month 20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 96/05/23 for 4 yrs. Svd: 03 Yrs 07 Mo 01 Das, of which AMS is 3 yrs 6 months 24 days (Excludes 7 days lost time).

b. Grade Status: AB - 99/11/10 (Article 15, 99/11/10)
AMN - 99/05/13 (Article 15, Vacation, 99/10/07)
A1C - 97/09/29
AMN - (EPR Indicates): 96/05/23-98/01/22

c. Time Lost: 7 Days.

d. Art 15's: (1) 99/11/10, Rhein-Main AB, Germany - Article 134. You, did, on or about 7 Jul 99, with intent to defraud, falsely pretend to the ----- that you were employed by the United States Secret Service (USSS) then knowing that the pretenses were false, and by means thereof did wrongfully obtain from ----- services, of a value of about \$6,000.00, to wit: an increase of your credit limit which conduct was of a nature to bring discredit upon the armed forces. You, did, on or about 7 Jul 99, wrongfully and willfully impersonate an agent of the United States Secret Service (USSS) by stating to ----, a representative of the -----, that you were of the pay grade of GS-15 with intent to defraud -----, and you committed one or more acts which exercised or asserted the authority of the office you claimed to have to get an increase of your credit limit, which conduct was of a nature to bring discredit upon the armed forces. You, did, between on or about 1 May 99 to on or about 31 May 99, wrongfully and willfully impersonate a commissioned officer of the Air Force by stating via telephonic loan application to the ----- that you

were of the rank of a captain of the Air Force with intent to defraud -----, which conduct was of a nature to bring discredit upon the armed forces. Reduction to AB. (No appeal) (No mitigation)

- (2) 99/10/04, Vacation, Rhein-Main AB, Germany - Article 134. You, did, on or about 7 Jul 99, with intent to defraud, falsely pretend to the ----- that you were employed by the United States Secret Service then knowing that the pretenses were false, and by means thereof did wrongfully obtain from -----, of a value of about \$6,000.00, to wit: an increase of your credit line. Reduction to Amn. (No appeal) (No mitigation)
- (3) 99/05/13, Rhein-Main AB, Germany - Article 86 & 92. You did, on or about 15 Mar 99, without authority, absent yourself from your unit, a place of duty at which you were required to be, and you did remain so absent until on or about 16 Mar 99. You did, having knowledge of a lawful order issued by SMSgt ----- on 18 Mar 99, to contact him after your 23 Mar 99 medical appointment, an order which it was your duty to obey, did in the Pensacola, Florida area, on or about 23 Mar 99, fail to obey the same by wrongfully not calling SMSgt ----- . You did, having knowledge of a lawful order issued by SMSgt ----- on 7 Apr 99, to return to duty at the 626th Air Mobility Support Squadron, located at Rhein-Main AB, Germany, as soon as you were cleared to fly by medical personnel, an order which it was your duty to obey, you did in the Pensacola, Florida area, on or about 10 Apr 99, fail to obey the same by wrongfully not returning to Rhein-Main AB, Germany when released by medical personnel on 9 Apr 99. You did, having knowledge of a lawful order issued by TSgt ----- on 13 Apr 99, to report for duty at the 626th Air Mobility Support Squadron, located at Rhein-Main AB, Germany, no later than 0700 hours on 15 Apr 99, an order which it was your duty to obey, you did in the Pensacola, Florida area, on or about 15 Apr 99, fail to obey the same by wrongfully not reporting to work until 18 Apr 99. Reduction to Amn (suspended until 9 Nov 99), 10 days extra duty, and forfeiture of \$150.00 pay per month for two months. (No appeal)* (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 96/05/23 - 98/01/22 Rhein-Main AB 4 (Initial)
98/01/23 - 99/01/22 Rhein-Main AB 5 (Annual)

(Discharged from Hurlburt Field)

h. Awards & Decs: AFTR, AFOSLTR.

i. Stmt of Sv: TMS: (03) Yrs (08) Mos (14) Das
TAMS: (03) Yrs (6) Mos (24) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/03/07.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH
none.

02/07/03/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

☒ WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

☒ ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

To whom it may concern I would Ask the Board to review my discharge. On or About Feb. of 1999, my family total of 4 people flew to the state for a friend of the family death. I took enough Leave to spend time with family also. When I was on my way back to Germany where I was stationed I got sick on the plane. I was rush to the hospital by paramedic. On one of the stops on the plane which was in Orlando, I was release from the hospital next day ten hours. I was now in a town with little money. I was Able to get some money from my family. I got a hotel I rented a car because Doctor order to me I could not fly. And to get check out in 72 hours by military doctors. So I went to Pensacola. I contacted my first shirt which he was upset. I got a Defence Counsellor because my first shirt said that he was going to list me A-1 so my counsel told me to turn my self in. Which I did but when we went to do so my first shirt did not list me A-1. he was lying then the counsellor call the first shirt told him that I was going to the hospital and get check out with I did the Doctor told me not to fly for 3 weeks then my first shirt told me that he wanted me to go to herbert field. And work which I was in pensacola which was A hour & A half no hotel not transportation. I had to rent A car I did that for About 2 months. eventime I went to the doctor the same day then more time to heal this was A military doctor.

☒ I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

☐ I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date)
AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

☐ THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

b. SIGNATURE

2002/03/12

UPON SUBMISSION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY

Army Review Boards Agency
Support Division, St. Louis
ATTN: SFMR-RBR-SL
9700 Page Avenue
St. Louis, MO 63132-5200

NAVY & MARINE CORPS

Naval Council of Personnel Boards
Bldg. 36 - Washington Navy Yard
901 M Street, S.E.
Washington, DC 20374-5023

AIR FORCE

SAF/MIBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

Commandant (WPM-60)
U.S. Coast Guard Headquarters
Washington, DC 20593-0001

so buy this time. I was out of money
doing everything I could do to get back
& forth to work. My first shirt did
not set up any hotel or convenession.
Leave then on the day After my
doctor told me that I was to not
fly for other 2 weeks. The next
couple of days my first shirt
called me up. And told me to go back
to hubert field. And go to this certain
doctor that he set up which I did
that doctor told me I could fly. then
I called the first shirt. The first shirt
said you are out of Leave be back
by tomorrow it was 4:30 PM in Florida
time. And then my plane ticket could
not be used on the week end. I tolded
my first shirt. He told me to get back
A.S.A.P. which was monday. I got back
he put me on base restion. ~~He~~ He
stopped my pay while I was on Leave.
He moved me from one section to Another
section. A section I had work hard to
get. He gave me a Article 15 for
being not back by that Saturday
morning. And took my stripes. When

page 2

that was over. Then everybody I had
recieved money from started called
wanted there money back in the
I told my Supervisor ~~_____~~
she told me & she got A False Les made
up on the computer & told me to fax
it to my ~~credit~~ credit card company
which I did requesting. A credit
card increase they increase it. Later
I called the credit card company up
and told them what happened they told
me just make good on the payments
I am paying them off in time. The
first shirt gave me Another Article 15
which two Article 15 got me kick
out the military I feel that I had
no control of the ~~circumstances~~ And that
I deserve a honorable Discharge I have
finish college. I have A very good job.
~~I am~~ I am & Always have been a model
citizen.



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAFE)

FD2002-0129

07 DEC 1999

MEMORANDUM FOR 86 AW/JA

FROM: 469 ABG/JA

SUBJECT: Legal Review of Discharge - AB [REDACTED]
626 AMSS

1. I have reviewed the administrative discharge action against AB [REDACTED] initiated on 18 Nov 99 [REDACTED] 626 AMSS/CC, and find it legally sufficient to support discharge. AB [REDACTED] was properly notified of this action and was informed of his right to submit statements. AB [REDACTED] waived his right to submit statements. 626 AMSS/CC recommends that AB [REDACTED] receive a general discharge without probation and rehabilitation.

2. BASIS FOR THE ACTION: Administrative discharge action is based on [REDACTED] pattern of misconduct during his enlistment. The regulatory authority for this discharge is AFI 36-3208, *Administrative Separation of Airmen*, Section H, paragraph 5.50.2. The worst service characterization an individual may receive under this paragraph is under other than honorable conditions (UOTHC). Since [REDACTED] was not offered a board hearing, the worst service characterization he may receive is an under honorable conditions (general) discharge. AB [REDACTED] discharge is based upon the following:

a. On 13 May 99, he was given Nonjudicial Punishment under Article 15 of the UCMJ for being absent from his unit without authority and for disobeying a lawful order issued by [REDACTED] (the squadron first sergeant) and another superior noncommissioned officer, [REDACTED] in violation of Article 86 and 92 of the UCMJ.

b. On 7 Oct 99, the suspended portion of the previous Nonjudicial Punishment was vacated for intent to defraud and falsely pretending to the United Services Automobile Association (USAA) that he was employed by the United States Secret Service (USSS) to wrongfully increase his credit limit in violation of Article 134 of the UCMJ.

c. On 10 Nov 99, he was given Nonjudicial Punishment under Article 15 of the UCMJ for intent to defraud and falsely pretending to USAA that he was employed by the USSS to wrongfully increase his credit limit, for wrongfully and willfully impersonating an agent of the USSS in the pay grade of a GS-15 to increase his credit limit, and wrongfully and willfully impersonating a commissioned officer in the rank of captain of the United States Air Force with intent to defraud USAA in violation of Article 134 of the UCMJ.

d. On 4 Nov 99, he received a letter of reprimand from [REDACTED] for missing three separate medical appointments in violation of Article 86 of the UCMJ.

3. MATTERS SUBMITTED BY THE RESPONDENT: After conferring with the Area Defense Counsel on 18 Nov 99, the respondent waived his right to submit statements in his behalf.

4. DISCUSSION: The respondent's commander has recommended that the respondent be separated from the United States Air Force with a general discharge under AFI 36-3208, paragraph 5.50.2. Under this paragraph, airmen who engage in misconduct consisting of conduct prejudicial to good order and discipline are subject to discharge. In this case, the respondent's several incidents of misconduct in his current enlistment meet the necessary requirements of this paragraph. Discharge is appropriate in this case.

5. OTHER MATTERS: I note that before the respondent can be discharged, he must be found medically qualified for worldwide duty in accordance with AFI 36-3208, paragraph 6.3. AFI 36-3208, paragraph 6.16, instructs that processing should not be delayed to wait for the medical report. The convening authority may authorize the discharge, but it will not be executed until the medical report is complete.

6. CHARACTERIZATION OF SERVICE: Characterization of service should be based on the quality of the member's service in the current enlistment. The respondent has 3 1/2 years of military service. His current enlistment began on 30 May 96 for a term of 4 years. The respondent has received two EPRs in the current enlistment, one EPR with a promotion recommendation of 5 and one EPR with a promotion recommendation of 4. The service of an airman discharged for misconduct can be characterized as honorable, general, or UOTHC. The respondent's acts of misconduct in the current enlistment cited as the basis for discharge constitute significant negative aspects of his service. The respondent's commander recommends a general discharge based on that misconduct. I agree. A general discharge is appropriate because significant negative aspects of AB [REDACTED] conduct outweigh any positive aspects of his military record.

7. PROBATION AND REHABILITATION: Under the provisions of AFI 36-3208, Chapter 7, the member is entitled to have probation and rehabilitation (P&R) considered by the discharge authority. P&R includes ordering a discharge and then suspending it until the member has successfully completed a period of P&R. The respondent's commander does not recommend P&R because prior rehabilitative measures have not helped. The respondent has received rehabilitative measures to include two instances of nonjudicial punishment, creation of an UIF, vacation of suspended nonjudicial punishment, and a LOR. These have failed to alter his behavior. The commander feels further rehabilitative measures are not warranted. I concur.

8. ACTIONS WHICH MAY BE TAKEN: As the Special Court-Martial Convening Authority, you have the following options:

- a. Direct that the respondent be retained in the United States Air Force; or,
- b. Direct that the respondent be separated from the United States Air Force with a general discharge, with or without P&R.
- c. Forward the case file to 3 AF/CC, recommending that the respondent be separated from the United States Air Force with an honorable discharge, with or without P&R;
- d. Return the case file to the unit for processing as an administrative discharge board case. This would permit a service characterization of UOTHC.

9. RECOMMENDATION: Direct that the respondent be separated from the United States Air Force with a general discharge, without P&R, by signing at Attachment 1.


Captain, USAF
Assistant Staff Judge Advocate

Concur/Nonconcur


Major, USAF
Staff Judge Advocate


Attachments:

1. Proposed Memo for 86 AW/CC
2. Discharge Package

1st Ind, 86 AW/JA

MEMORANDUM FOR 86 AW/CC

I concur with the above recommendation.


Colonel, USAF
Staff Judge Advocate

I have reviewed this legal review, and hereby adopt its contents as my own.



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAFE)

MEMORANDUM FOR AB [REDACTED] 626 AMSS

18 Nov 99

FROM: 626 AMSS/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline according to AFD 36-32 and AFI 36-3208, under the provisions of Section H, paragraph 5.50.2. If my recommendation is approved, your service will be characterized with either an honorable or under honorable conditions (general) discharge. I am recommending that your service be characterized with an under honorable conditions (general) discharge.

2. My reasons for this action are:

a. On 13 May 99 you were given Nonjudicial Punishment under Article 15 of the UCMJ for being absent from your unit without authority and for disobeying a lawful order issued by SMSgt [REDACTED] (the squadron first sergeant) and another superior noncommissioned officer, [REDACTED] in violation of Article 86 and 92 of the UCMJ.

b. On 7 Oct 99 you received a vacation of suspended Nonjudicial Punishment (AF 366) for intent to defraud and falsely pretending to the United Services Automobile Association (USAA) that you were employed by the United States Secret Service (USSS) to wrongfully increase your credit limit in violation of Article 134 of the UCMJ.

c. On 10 Nov 99 you were given Nonjudicial Punishment under Article 15 of the UCMJ for intent to defraud and falsely pretending to USAA that you were employed by the USSS to wrongfully increase your credit limit, for wrongfully and willfully impersonating an agent of the USSS in the pay grade of a GS-15 to increase your credit limit, and for wrongfully and willfully impersonating a commissioned officer in the rank of captain of the United States Air Force with intent to defraud USAA in violation of Article 134 of the UCMJ.

d. On 4 Nov 99 you received a letter of reprimand from [REDACTED] for missing three separate medical appointments in violation of Article 86 of the UCMJ.

3. Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The commander exercising Special Court-Martial 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 United States Air Force and will probably be denied enlistment in any component of the armed forces. Additionally, any special pay, bonus, or education assistance funds you have received may be subject to recoupment.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made a telephonic appointment for you to consult Captain [REDACTED] Area Defense Counsel, telephone number 480-2182, at 1000 hours on 18 November 1999. You may consult civilian counsel at your own expense. Civilian counsel, if employed, must be readily available.

5. You have the right to submit statements in your own behalf. Any statement you want the separation authority to consider must reach me by 23 Nov 1999 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 submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 469th Medical Group, Physical Exam Section, at 0745 hours on 19 Nov 99. An additional examination will be scheduled if necessary.

8. Any personal information you furnish is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use in the unit orderly room.

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



Colonel, USAF

Commander, 626 AMSS

Attachments:

1. Supporting Documents

- a. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dtd 4 May 99
- b. AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dtd 4 Oct 99
- c. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dtd 25 Oct 99
- d. Letter of Reprimand, dated 3 Nov 99
- e. AF Form 1127, Unfavorable Information File Summary

2. Airman's Acknowledgment