

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES NO		
<input type="checkbox"/> <input checked="" type="checkbox"/>		

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.35, A94.11, A94.05	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD			
		1	ORDER APPOINTING THE BOARD		
		2	APPLICATION FOR REVIEW OF DISCHARGE		
		3	LETTER OF NOTIFICATION		
HEARING DATE 02-08-27	CASE NUMBER FD2002-0129	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 and the right to a personal appearance with/without counsel, The right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 02-08-27
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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 COMMAND DR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0129

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change his reenlistment code.

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 and change of reenlistment code are denied.

The Board finds that neither the evidence of record or that provided by applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant was discharged for minor disciplinary infractions. He was verbally counseled at least twice, had two Letters of Reprimand, an Article 15, and an Unfavorable Information File. His misconduct included two instances of failure to go, three incidents of failure to obey a lawful order, a dormitory violation, and disrespect to two superior noncommissioned officers. At the time of the discharge, after consulting counsel, member submitted a statement in his own behalf requesting an honorable discharge. He also noted his belief that his problems arose out of communications difficulties between he and his supervisor, and that he (member) was being discharged for inability to adapt to military life. Applicant now states his discharge was based on one isolated incident and that he should have challenged the other accusations against him. The Board noted that member was the same age as other airmen who adhere to the standards when his misconduct occurred, and he knew right from wrong. He was mature and responsible for his actions, and therefore was held accountable for them. 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

[REDACTED]

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/03/16 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 80/08/12. Enlmt Age: 19 4/12. Disch Age: 20 7/12. Educ:HS DIPL. AFQT: N/A. A-67, E-62, G-52, M-36. PAFSC: 3P031 - Security Forces Apprentice. DAS: 00/06/19.

b. Prior Sv: (1) AFRes 00/01/06 - 00/01/11 (6 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/01/12 for 4 yrs. Svd: 01 Yrs 02 Mo 05 Das, all AMS.

b. Grade Status: AB - 01/02/21 (Article 15, 01/02/21)
AMN - 00/07/12

c. Time Lost: none.

d. Art 15's: (1) 01/02/21, Minot AFB, ND - Article 86. You, did, on or about 11 Jan 01, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 12 Jan 01, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, having knowledge of lawful order issued by SSgt ----- to research materials associated with the Master Task Listing and to create a training package, an order which it was your duty to obey, did, on or about 19 Dec 00, fail to obey the same by not researching the materials and creating a training package. You, having knowledge of lawful order issued by SSgt ----- to research materials associated with the Master Task Listing and complete a training package by 1800 on 3 Jan 01, an order which it was your duty to obey, did, on or about 3 Jan 01, fail to obey the same by not completing the trainin package. Article 91. You, on or about 10 Jan 01, were disrespectful in language toward SSgt -----, a noncommissioned officer, then known by you to be a superior non-commissioned officer, who was then in the execution of his office by sharply saying to him, "Whatever," or words to that effect. Reduction to AB, and forfeiture of \$521.00 pay. (No appeal)

(No mitigation)

- e. Additional: LOR, 03 AUG 00 - Allowing a female minor to enter dorm room.
LOR, 18 NOV 00 - Failure to obey a lawful order.
- f. CM: none.
- g. Record of SV: none.

(Discharged from Minot AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (02) Mos (11) Das
TAMS: (01) Yrs (02) Mos (05) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/12.
(Change Discharge to Honorable and Change the RE Code.)

Issue 1: My discharge was inequitable because it was based on one isolated incident in 15 months of service. All other incidents were inaccurate. I, -----, made a mistake in not challenging all other accusations. At the time my lawyer, Captain -----, asked me if I wanted to be in the military. Making an impulsive decision, I replied "No." Captain ----- said not to challenge all other accusations. My commander and I sat down one day informally, and he told me that I was one of the best troops to ever join his squadron. He told me that Captain ----- had just helped my request on leaving the military. This being said, three months after the discharge, I realized that I made the biggest mistake of my life and not only disgraced myself but my family as well. I made a mistake and got punished for it. If possible, I would like my discharge upgraded to an honorable so not to destroy my future over one mistake. I would also like my reentry code changed. I feel that although my discharge is just, the reentry code is not. Because of the "B" I will never be able to show the United States government that I have grown up and will be the troop that I feel I could have been. Thank you for taking the time to review this DD Form 293 and if possible I would like a response in writing on any actions if any, that occur. Thank you.

ATCH

1. DD Form 214.

02/07/03/ia

(3) On or about 19 Dec 00, [REDACTED] failed to obey a lawful order issued by a noncommissioned officer to research material associated with the Master Task Listing and to create a training package.

(4) On or about 3 Jan 01, [REDACTED] failed to obey a lawful order issued by a noncommissioned officer to research material associated with the Master Task Listing and to create a training package.

(5) On or about 10 Jan 01, [REDACTED] was disrespectful in language towards a noncommissioned officer who was in execution of his office by sharply saying to him, "Whatever," or words to that effect.

For these acts of misconduct AB [REDACTED] was punished under Article 15 of the UCMJ on 21 Feb 01, and this was added to his existing UIF. (Atch 1)

3. MATTERS SUBMITTED BY THE RESPONDENT: On 8 Mar 01, AB [REDACTED] consulted with [REDACTED] Area Defense Counsel at Minot AFB, ND, and indicated that he would submit written statements on his own behalf. On 12 Mar 01 [REDACTED] submitted a written statement. He respectfully requests that he be given an honorable discharge. He believes the reason he is currently being discharged from the military and receiving a general discharge characterization is for the simple reason that he could not adapt to the military way of life. He stated that while he is responsible for his own decisions and actions, he believes many of his problems as a security forces member came from communication problems between his supervisor and himself. He believes that if he was not a security forces member, a job that the Air Force chose for him, he would have been able to make the military a career. He asks that consideration be given to his case and states that while he may not have been the model security forces member, he could have been an asset to the Air Force in another career field. He asks that he be given an honorable discharge instead of a general discharge.

4. COMMANDER'S RECOMMENDATION: The squadron commander has considered [REDACTED] written response to the recommendation for discharge. However, the commander still recommends that [REDACTED] be discharged with a general discharge.

5. DISCUSSION: There are four questions which must be addressed before discharging [REDACTED]. They are as follows.

a. BASIS FOR DISCHARGE: In deciding whether [REDACTED] is to be discharged, you must first determine if there is a basis for discharge. By definition, minor disciplinary infractions involve failures to comply with nonpunitive regulations or minor offenses under the UCMJ which result in counselings, letters of reprimand, or Article 15's. In determining whether there is a basis for discharge, you may only consider the misconduct described in paragraph 2. Paragraph 2 shows that [REDACTED] conduct clearly falls within this definition of minor disciplinary infractions and thus, a basis for discharge exists under AFI 36-3208, paragraph 5.49.

b. APPROPRIATENESS OF DISCHARGE: Next, you must determine whether AB [REDACTED] should be discharged. You may consider AB [REDACTED] entire military record when making this determination. [REDACTED] has repeatedly failed to conform to Air Force standards and regulations. He has been given a number of opportunities to correct his deficiencies, as evidenced by verbal counseling, two Letters of Reprimand, and the establishment of an Unfavorable Information File. However, [REDACTED] has failed to modify his behavior despite these rehabilitative and administrative tools. Finally, he was punished under Article 15 of the UCMJ for failing to go at the time prescribed to his appointed place of duty on two separate occasions, failing to obey a lawful order issued by a noncommissioned officer on two separate occasions, and using disrespectful language towards a noncommissioned officer. He clearly shows an unwillingness or an inability to conform to military standards. Given his entire military record, [REDACTED] should not remain in the Air Force.

(1) [REDACTED] has 1 year and 2 months active duty service. His current enlistment began on 12 Jan 00. He has not received an Enlisted Performance Report in this enlistment. (Atch 5)

(2) On 13 Mar 01, the squadron commander recommended that [REDACTED] be discharged with a general discharge: After reviewing the case file, I concur with that recommendation since there is a clear pattern of misconduct.

c. CHARACTERIZATION OF SERVICE: If you determine that [REDACTED] should be discharged, you must also determine the characterization of the discharge. Characterization of service is determined solely by the member's military record during the current enlistment. The following are the three possible characterizations of service:

(1) Under Other Than Honorable Conditions: An under other than honorable conditions discharge is appropriate when the airman's conduct is a serious departure from the standards expected of airmen. A recommendation for an under other than honorable conditions discharge carries with it the right to an administrative discharge board.

(2) General: If the case file does not demonstrate such a serious departure from expected standards, but significant negative aspects of an airman's conduct outweigh the positive aspects, then a general discharge is appropriate.

(3) Honorable: An honorable discharge is appropriate when the quality of a member's service record generally has met Air Force standards of acceptable conduct and performance of duty, or has been so meritorious that any other characterization would be clearly inappropriate.

In this case, [REDACTED] misconduct has not been so deleterious as to warrant an under other than honorable conditions discharge. However, his repeated misconduct, when balanced with his military record during this current enlistment, justifies the awarding of a general discharge.

d. PROBATION AND REHABILITATION: If you decide that discharge is warranted, you must also decide if probation and rehabilitation (P&R) is appropriate. [REDACTED] commander does not recommend P&R. [REDACTED] has failed to respond to repeated rehabilitative measures. He has little concern for military standards and seems unwilling to change his behavior. Accordingly, P&R should not be offered in this case.

6. ERRORS AND IRREGULARITIES: There are no errors or irregularities which materially affect the procedural or substantive rights of the member.

7. ACTION WHICH MAY BE TAKEN: As the SPCM authority, your options are:

- a. Retain [REDACTED] if the evidence does not support discharge; or,
- b. Return the case to the squadron for processing under a more appropriate provision; or,
- c. Return the case to the squadron to reinstate the action in order to make [REDACTED] entitled to a discharge board hearing if you believe that an under other than honorable conditions discharge may be warranted; or,
- d. Discharge [REDACTED] with a general discharge, with or without suspension for P&R; or,
- e. Forward your recommendation with specific reasons for an honorable discharge, with or without suspension for P&R, to 8 AF/CC.

8. RECOMMENDATION: I recommend that you separate [REDACTED] with a general discharge without suspension for probation and rehabilitation. If you concur, please sign the letter at attachment 1.

- Attachments:
- 1. Letter
 - 2. Case File

FD 2002-0129



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 5TH BOMB WING (ACC)
MINOT AIR FORCE BASE, NORTH DAKOTA

MAR 07 2001

MEMORANDUM FOR AB [REDACTED], FR [REDACTED], 5 SFS

FROM: 5 SFS/CC

SUBJECT: Letter of Notification - AFI 36-3208, Paragraph 5.49.

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, paragraph 5.49. If my recommendation is approved, your discharge will be characterized as general or honorable. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 22 Jul 00, you failed to obey a written order by allowing a female minor to enter your dorm. You were aware that at no time is it or will it ever be allowable for any person under the age of 18 to be in a military dormitory. You were given a Letter of Reprimand (LOR) on 3 Aug 00. (Atch 3)

b. On or about 15 Nov 00, you refused to obey a lawful order when you were instructed to perform a simple training procedure in preparation for your upcoming Quality Control Evaluation. You were instructed to don your gas mask in a training scenario, a task you would need to perform. You stated that you were not going to do it and started to walk away. You were then instructed two more times to don your gas mask, and each time you refused. You further stated that if you felt something was pointless and stupid then you were not going to do it. This was the third time you had disobeyed a noncommissioned officer when ordered to complete a portion of your training (the previous two times you were verbally counseled). You were given a LOR on 18 Nov 00, and an Unfavorable Information File (UIF) was established on 30 Nov 00. (Atch 4-6)

c. Between on or about 3 Jan 01 and on or about 12 Jan 01, you engaged in the following misconduct:

(1) On or about 11 Jan 01, you failed to go at the time prescribed to your appointed place of duty.

(2) On or about 12 Jan 01, you failed to go at the time prescribed to your appointed place of duty.

(3) On or about 19 Dec 00, you failed to obey a lawful order issued by a noncommissioned officer to research material associated with the Master Task Listing and to create a training package.

(4) On or about 3 Jan 01, you failed to obey a lawful order issued by a noncommissioned officer to research material associated with the Master Task Listing and to create a training package.

(5) On or about 10 Jan 01, you were disrespectful in language towards a noncommissioned officer who was in execution of his office by sharply saying to him, "Whatever," or words to that effect.

For these acts of misconduct you were punished under Article 15 of the UCMJ on 21 Feb 01, and this was added to your existing UIF. (Atch 7)

3. The Letter of Notification with attachments will be forwarded to the separation authority in support of this recommendation. The commander exercising SPCM jurisdiction (5 BW/CC) 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 Capt [REDACTED] Area Defense Counsel, at 300 Summit Drive, Room 306A, at 0930 hours on 8 MAR 2001. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 1350 hours on 12 MAR 2001, 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 on 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 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND, at 0800 hours on 9 MAR 2001, for the examination. You must not drink alcoholic beverages 72 hours prior to the exam.

8. The Privacy Act of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the Orderly Room.

9. Sign the attached acknowledgment and the Statement of Understanding and return them to me immediately.



Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. Letter of Reprimand, 30 Jul 00
4. Letter of Reprimand, 18 Nov 00
5. Response to Letter of Reprimand, 29 Nov 00
6. AF FM 1058, Unfavorable Information File Action, 30 Nov 00
7. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 27 Feb 01, w/atc