

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 1em; margin-top: 5px;"></div>		GRADE A1C	AFSN/SSAN <div style="background-color: black; width: 100px; height: 1em; margin-top: 5px;"></div>			
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	NO					
	X					
MEMBERS SITTING <div style="background-color: black; width: 200px; height: 1em; margin-top: 5px;"></div> <div style="background-color: black; width: 200px; height: 1em; margin-top: 5px;"></div> <div style="background-color: black; width: 200px; height: 1em; margin-top: 5px;"></div> <div style="background-color: black; width: 200px; height: 1em; margin-top: 5px;"></div> <div style="background-color: black; width: 200px; height: 1em; margin-top: 5px;"></div>		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A93.11		INDEX NUMBER A67.90		EXHIBITS SUBMITTED TO THE BOARD		
				1	ORDER APPOINTING THE BOARD	
HEARING DATE 5 NOV 02		CASE NUMBER FD2002-0154		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 RATIONAL 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 <div style="background-color: black; width: 300px; height: 2em; margin-top: 5px;"></div>			SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 300px; height: 2em; margin-top: 5px;"></div>			
INDORSEMENT				DATE: 5, NOV 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 1535 COMMAND DR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0154

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.

ISSUE: Applicant is not contesting the discharge. He admits he made some bad judgment calls in his finances and wants the Board to look at his whole career in the military. The record indicates the applicant received two Article 15's. The first one for assaulting another airman. The second one for uttering three checks for a total amount of \$357.55. In addition, the applicant received a Letter of Reprimand for dereliction of duty. The DRB took note of the applicant's duty performance as documented by his performance reports and other information contained in the record. 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 which were the basis for this case. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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.

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

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/08/13 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Hon Disch.

2. **BACKGROUND:**

a. DOB: 76/06/22. Enlmt Age: 18 2/12. Disch Age: 23 1/12. Educ: HS DIPL. AFQT: N/A. A-86, E-81, G-74, M-72. PAFSC: 3PO51 - Security Forces Journeyman. DAS: 97/07/25.

b. Prior Sv: (1) AFRes 94/08/03 - 94/09/14 (1 Mo 12 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 94/09/15 for 4 yrs. Svd: 4 Yrs 10 Mo 29 Das, all AMS.

b. Grade Status: A1C - 99/07/22 (Article 15, 99/07/22)
SRA - 97/09/15
A1C - 96/01/15
AMN - 95/03/15

c. Time Lost: None

d. Art 15's: (1) 99/07/22, Ramstein AB, Germany, Article 134. You did, on divers occasions between on or about 15 Mar 1999 and on or about 4 Apr 1999, make and utter to Army and Air Force Exchange Service certain checks, in words and figures as follows, to wit: Check #124, in the amount of \$149.68, check #132, in the amount of \$45.92, and check #144, in the amount of \$161.95, of a total amount of \$357.55, drawn upon the ----- Bank, made payable to the order of Army and Air Force Exchange Service, and signed by you, for the purchase of lawful currency, articles of value, or things of value, and did thereafter dishonorably fail to maintain sufficient funds in said bank for payment of said check in full upon the presentment for payment. Reduction to the grade of A1C, 30 days extra duty, and a reprimand. (No appeal) (No mitigation)

(2) 98/10/08, Ramstein AB, Germany, Article 128. You did, on or about 5 Sep 1998, unlawfully hit ----- in the face with your hand. Suspended reduction to the grade of A1C, forfeiture of \$75.00 pay per month for two months, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 8 APR 99 - Dereliction of duty.

f. CM: None

g. Record of SV: 94/09/15 - 96/05/14 Grand Forks AFB 4 (Initial)
96/05/15 - 97/05/14 Kunsan AB 5 (Annual)
97/05/15 - 98/06/23 Ramstein AB 4 (Annual)

(Discharged from Hanscom AFB)

h. Awards & Decs: AFLSAR, AFTR, AFOSSTR, NDSM, HSM, JMUA, AFGCM.

i. Stmt of Sv: TMS: (5) Yrs (0) Mos (11) Das
TAMS: (4) Yrs (10) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/19.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF

ATCH

1. Applicant's Issues

02/07/12/cr



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

FD 2002-0154
05 AUG 1999

MEMORANDUM FOR 86 AW/CC

FROM: 86 AW/JA

SUBJECT: Legal Review of Discharge - [REDACTED]

1. I have reviewed the administrative discharge action against [REDACTED] initiated by [REDACTED] on 30 Jul 99 and find it legally sufficient to support discharge.

2. BASIS FOR THE ACTION: Administrative discharge action is based on the respondent's pattern of misconduct during his current enlistment. The regulatory authority for this discharge is AFI 36-3208, Section H, paragraph 5.50.2. The worst characterization an individual discharged under this paragraph may receive is under other than honorable conditions (UOTHC). Since [REDACTED] was not offered a board hearing, the worst service characterization A1C Custy may receive is a general, under honorable conditions discharge. [REDACTED] discharge is based upon the following:

a. He did, at or near the Kaiserslautern Military Community, Germany, on divers occasions, between on or about 15 Mar 99 and on or about 4 Apr 99, make and utter to Army and Air Force Exchange Service (AAFES), three checks, in words and figures for a total amount of \$357.55, drawn upon the Community Bank, made payable to the order of AAFES and signed by him, for the purchase of lawful currency, articles of value, or things of value, and did thereafter dishonorably fail to maintain sufficient funds in said bank for payment of said checks in full upon their presentment for payment. For these actions, he received nonjudicial punishment on 22 Jul 99. This Article 15 was filed in an Unfavorable Information File (UIF) on 28 Jul 99.

b. He did, on or about 1 Apr 99, fail to fulfill his duties as the senior ranking airman and was found to be derelict in his duties. For this action, he received a Letter of Reprimand (LOR), dated 8 Apr 99. This LOR was filed in a UIF on 22 Apr 99.

c. He did, on or about 5 Sep 98, at or near Kapaun Air Station, Germany, unlawfully hit [REDACTED] in the face with his hand. For this action, he received Nonjudicial Punishment on 8 Oct 98. This Article 15 was filed in a UIF on 14 Oct 98.

3. MATTERS SUBMITTED BY THE RESPONDENT: After conferring with the Area Defense Counsel (ADC) via telephone on 3 Aug 99, the respondent submitted a statement in which he requested to receive an honorable discharge. In his statement, the respondent summarized his background and accomplishments while in the Air Force.

4. DISCUSSION: The respondent's commander has recommended that the respondent be separated from the Air Force with a general discharge under AFI 36-3208, paragraph 5.50.2. Under paragraph 5.50.2, 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 definition of this paragraph.

5. OTHER MATTERS: The respondent's ADC did not sign the response because he was TDY. However, the respondent did consult with his ADC via telephone prior to responding to this action. Thus, the lack of the ADC's signature does not affect the legal sufficiency of this discharge. 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. [REDACTED] had his medical appointment on 2 Aug 99 and AFI 36-3208, paragraph 6.16, instructs that processing should not be delayed to wait for the medical report. You 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 over 4 years and 10 months of military service. His current enlistment began on 15 Sep 94 for a term of 4 years. The respondent has received three EPRs in the current enlistment with promotion recommendations of 4, 5, and 4. The service of a member discharged by notification procedure for misconduct can be characterized as honorable or general. A general characterization is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. AFI 36-3208, paragraph 1.18.2. In this case, the instances of misconduct in the current enlistment cited as the basis for discharge constitute significant negative aspects of the respondent's service. The respondent's commander recommends a general discharge based on that misconduct. I agree.

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, including a Letter of Reprimand (LOR), creation of an Unfavorable Information File (UIF) and two instances of nonjudicial punishment, have failed to alter the respondent's behavior. I concur.

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

- a. Direct that the respondent be retained in the United States Air Force;
- b. 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;
- c. Direct that the respondent be separated from the United States Air Force with a general discharge, with or without P&R; or
- 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.


Capt, USAF
Chief, Adverse Actions

Attachments:

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



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

FD 2002-0154

MEMORANDUM FOR [REDACTED]

30 July 99

FROM: 569 USFPF/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline. The authority is AFPD 36-32 and AFI 36-3208, Section H, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are that:

a. You did, at or near the Kaiserslautern Military Community, Germany, on divers occasions, between on or about 15 Mar 99 and on or about 4 Apr 99, make and utter to Army and Air Force Exchange Service (AAFES), three checks, in words and figures for a total amount of \$357.55, drawn upon the Community Bank, made payable to the order of AAFES and signed by you, for the purchase of lawful currency, articles of value, or things of value, and did thereafter dishonorably fail to maintain sufficient funds in said bank for payment of said check in full upon their presentment for payment. For these actions you received nonjudicial punishment on 22 Jul 99 (Atch 1a). This Article 15 was filed in an Unfavorable Information File (UIF) on 28 Jul 99.

b. You did, on or about 1 Apr 99, fail to fulfill your duties as the senior ranking airman and were found to be derelict in your duties. For this action, you received an Letter of Reprimand (LOR) (Atch 1b) dated 8 Apr 99. This LOR was filed in a UIF on 22 Apr 99.

c. You did, on or about 5 Sep 98, at or near Kapaun Air Station, Germany, unlawfully hit [REDACTED] in the face with your hand. For this action, you received Nonjudicial Punishment on 8 Oct 98 (Atch 1c). This Article 15 was filed in a UIF on 14 Oct 98.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court Martial jurisdiction, or a higher authority, will decide whether you will be discharged or retained in the United States 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 United States Air Force, and 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 an appointment for you to consult with [REDACTED], Area Defense Counsel, Building 2111, DSN 480-2182/2492. You may consult civilian counsel at your own expense. The Area Defense Counsel requests that you stop by their office prior to your appointment to pickup the Administrative Discharge Booklet.

5. You have the right to submit statements on your behalf. Any statements you want the separation authority to consider must reach me NLT (3 duty days)

4 Aug 99 at 1000 hours 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 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 in uniform with your medical records and an escort to the Ramstein Air Base Clinic, Physical Exams, Building 2182 on 2 Aug 99 at 0830 for the examination. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them. You must abstain from alcohol 72 hours, fast 12 hours, and abstain from caffeine and nicotine 10 hours prior to your appointment.

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 orderly room.

[REDACTED]
[REDACTED] Major, USAF
Commander

Attachments:

1. Supporting Documents
 - a. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 22 Jul 99
 - b. LOR, 8 Apr 99
 - c. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 8 Oct 98
3. Airman's Receipt of Notification Memorandum