

		PERSONAL APPEARANCE	X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO						
	X						
MEMBERS SITTING [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]			VOTE OF THE BOARD				
			HON	GEN	UOHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A95.00		INDEX NUMBER A67.50	EXHIBITS SUBMITTED TO THE BOARD				
			1	ORDER APPOINTING THE BOARD			
			2	APPLICATION FOR REVIEW OF DISCHARGE			
			3	LETTER OF NOTIFICATION			
HEARING DATE 5 SEP 02		CASE NUMBER FD2002-0160	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: 5 SEP 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, 3RD FLOOR
ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0160

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant had an Article 15 for failure to go and a Vacation action of a suspended nonjudicial punishment. He also received two Letters of Reprimand and two Letters of Counseling for failure to go, two failures to pay just debts, and failure to complete his CDSs. Article 15 was vacated due to the second Article 15. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the patterns of misconduct were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of 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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 97/06/25 UP AFI 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement With Military or Civil Authorities). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 74/02/13. Enlmt Age: 20 0/12. Disch Age: 23 4/12. Educ: HS DIPL. AFQT: N/A. A-48, E-38, G-36, M-38. PAFSC: 3P032 - Law Enforcement Apprentice. DAS: 94/07.

b. Prior Sv: none.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 94/02/28 for 4 yrs. Svd: 03 Yrs 03 Mo 28 Das, all AMS.

b. Grade Status: AB - 96/10/29 (Article 15, Vacation, 97/05/01)
 A1C - (EPR Indicates): 95/10/28-96/10/27
 AMN - (EPR Indicates): 94/02/28-95/10/27

c. Time Lost: none.

d. Art 15's: (1) 97/05/01, Vacation, Eglin AFB, FL - Article 91. You, on or about 8 Mar 97, did treat with disrespect in language toward SMSgt -----, a senior non-commissioned officer, then known by you to be a senior non-commissioned officer, who was then in the execution of his office, by saying to him "Fuck that shit, I ain't staying, I have not done anything wrong," and "Yeah, fuck that shit," or words to that effect. Article 92. You, having knowledge of a lawful order issued by SMSgt ----- not to leave the NCO Club parking lot, an order which it was your duty to obey, did, on or about 8 Mar 97, fail to obey the same by attempting to leave the NCO Club parking lot. Reduction to Amn. (No appeal) (No mitigation)

(2) 96/10/29, Eglin AFB, FL - Article 86. You did, on or about 11 Oct 96, without authority, fail to go at the time prescribed to your place of duty. Reduction to Amn and forfeiture of \$490.35 pay per month for two months (both suspended until 28 Apr 97). Thirty days correctional custody (in excess of 27 days remitted 26 Nov 96). (No appeal) (No mitigation)

- e. Additional: (EXAMINER'S NOTE: LORS AND LOCS MISSING FROM FILE. SOURCE FOR THOSE LISTED BELOW IS THE LEGAL REVIEW)

One failure to go, two failures to pay just debts, and failure to complete CDCs. Applicant received two LOCs and two LORs for these offenses.

- f. CM: none.

- g. Record of SV: 94/02/28 - 95/10/27 Eglin AFB 3 (Initial)
95/10/28 - 96/10/27 Eglin AFB 3 (Annual)

(Discharged from Eglin AFB)

- h. Awards & Decs: AFTR, NDSM, HSM AFOUA, AFGCM.

- i. Stmt of Sv: TMS: (03) Yrs (03) Mos (28) Das
TAMS: (03) Yrs (03) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/13.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

none.

02/07/30/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE DEVELOPMENT TEST CENTER (AFMC)
EGLIN AIR FORCE BASE FLORIDA

11 June 1997

MEMORANDUM FOR 96 ABW/CC

FROM: AFDTC/JA

SUBJECT: AFI 36-3208 Legal Review, [REDACTED] 96 SPS (AFMC)

1. **LEGAL SUFFICIENCY:** I have reviewed the attached package in the discharge case of [REDACTED]. I find it legally sufficient to support a discharge under AFI 36-3208, Section H (Misconduct), paragraph 5.50.1, Discreditable Involvement with Military or Civilian Authorities.

2. **INITIATION OF ACTION:** On 9 Jun 97, [REDACTED] 96 SPS/CC, notified respondent he was recommending the airman be discharged for Discreditable Involvement with Military or Civilian Authorities under AFI 36-3208, paragraph 5.50.1. [REDACTED] recommends respondent receive a general discharge without probation and rehabilitation (P&R).

3. **RESPONDENT'S SUBMISSION:** Respondent, a 23 year old law enforcement apprentice, enlisted in the Air Force on 28 Feb 94. He was assigned to his current unit on 16 Jul 94. On 9 Jun 97, he waived his rights to consult counsel and to submit statements on his behalf.

4. **DISCUSSION:**

a. Basis for Discharge: Respondent has engaged in discreditable involvement with military or civilian authorities since 14 Mar 95. This involvement consisted of failure to obey an NCO's order and showing disrespect to the same NCO, two failures to go, two failures to pay just debts, and failure to complete his CDCs. For these incidents, respondent received two Letters of Counseling (LOCs), two Letters of Reprimand (LORs), one Article 15, and one vacation of suspended nonjudicial punishment. Copies of the supporting documents are attached to the notification letter. In light of these disciplinary infractions, there is sufficient basis for discharge.

b. Appropriateness of Discharge: Respondent's pattern of misconduct, as set forth in paragraph 4(a) above, does not support continued military service. It demonstrates an unwillingness to comply with standards set forth by the Air Force. Because he failed to maintain the minimum standards expected of an airman, respondent should be discharged.

c. Characterization of Service: Chapter 1, Section B, of AFI 36-3208, provides that characterization of service as honorable is appropriate when the member's service has been so meritorious that any other characterization is inappropriate. A general discharge is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. Characterization as under other than honorable conditions (UOTHC) is appropriate when the reasons for separation include a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. I agree with the commander that a general discharge is the most appropriate characterization.

d. Probation & Rehabilitation (P&R): Respondent is eligible for P&R, under AFI 36-3208, Chapter 7. However, this case is not an appropriate one for P&R. P&R is limited to deserving cases, including those where the airman has demonstrated a potential to serve satisfactorily, has the capacity to be rehabilitated for continued military service or for completion of the current enlistment, or whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. Past rehabilitative efforts, as set forth in paragraph 4(a), have not worked. Consequently, any further opportunities are unwarranted.

5. **OPTIONS**: As the Special Court-Martial Convening Authority, you may:

- a. Retain respondent;
- b. Approve separation with a general discharge with, or without, P&R;
- c. Return the file to the unit with a recommendation to reinitiate the case with a recommendation for a UOTHC discharge; or,
- d. Forward the file to the General Court-Martial Convening Authority with a recommendation for an honorable discharge with, or without, P&R.

6. **RECOMMENDATION**: Approve separation with a general discharge, without P&R.

[REDACTED]

I have reviewed the attached discharge package and the foregoing recommendation. I concur in the recommendation.

[REDACTED]

Attachment:
Case File [REDACTED]