

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE [REDACTED]	AFSN/SSAN [REDACTED]
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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	UOHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A94.05	INDEX NUMBER A67.10	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center; padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; text-align: center; padding: 5px;">1</td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center; padding: 5px;">2</td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center; padding: 5px;">3</td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center; padding: 5px;">4</td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </tbody> </table>	EXHIBITS SUBMITTED TO THE BOARD		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
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HEARING DATE 2 OCT 02	CASE NUMBER FD2002-0175																	

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 [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
INDORSEMENT	DATE: 2 OCT 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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0175

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 contends discharge was inequitable because it was too harsh in that he was put into a career field that he was completely uncomfortable with. 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 the applicant received an Article 15 for failing to refrain from consuming alcohol as a minor and controlling a vehicle while drunk. Also, the applicant received a Vacation action for failure to go three times, a Letter of Reprimand for failure to obey an order and failure to go, a Letter of Admonishment for underage drinking, a Record of Individual Counseling for being late for formation, and seven AETC Form 341's for failing his room inspection, being late for formation (3 times), failure to maintain dress and appearance, violation of dorm room security, and dereliction of duty. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members and concluded that the characterization of the applicant's discharge was appropriate due to the 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, 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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/10/03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 80/04/26. Enlmt Age: 20 1/12. Disch Age: 21 5/12. Educ:HS DIPL. AFQT: N/A. A-54, E-58, G-78, M-58. PAFSC: 2M012 - Missile and Space Systems Maintenance Helper. DAS: 01/01/25.

b. Prior Sv: (1) AFRes 00/06/21 - 00/10/09 (3 months 19 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/10/10 for 6 yrs. Svd: 00 Yrs 11 Mo 24 Das, all AMS.

b. Grade Status: A1C - 00/11/24

c. Time Lost: none.

d. Art 15's: (1) 01/06/21, Vacation, Vandenberg AFB, CA - Article 86. You did, on or about 8 Jun 01, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: the 0700 detail formation at Building 9192. You did, on or about 8 Jun 01, without authority, fail to go a the time prescribed to your appointed place of duty, to wit: the 1200 detail formation at Building 9192. You did, on or about 8 Jun 01, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: the 1600 Troops Information Procedures Summary (TIPS) formation at Building 9192. Forfeiture of \$521.00 for one month. (No appeal) (No mitigation)

(2) 01/04/03, Vandenberg AFB, CA - Article 92. You, who knew or should have known of your duties, on or about 13 Mar 01, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol as a minor under the legal drinking age, as it was your duty to do. Article 111. You did, on or about 13 Mar 01, physically control a vehicle, to wit: a passenger car, while drunk. Forfeiture of \$521.00 pay per month for 2 months (forfeiture of one month suspended until 02 Oct 01), and 14 days extra duty. (No appeal) (No mitigation)

- e. Additional: AETC 341, 08 FEB 01 - Failed room inspection.
 AETC,341, 14 FEB 01 - Late for formation.
 AETC 341, 14 MAR 01 - Late for formation.
 RIC, 14 MAR 01 - Late for formation.
 AETC 341, 16 MAR 01 - Failure to maintain dress and appearance.
 AETC 341, 27 MAR 01 - Violation of dorm room security.
 AETC 341, 06 APR 01 - Late for formation.
 LOA, 12 APR 01 - Underage drinking.
 AETC 341, 29 APR 01 - Dereliction of duty.
 LOR, 08 JUN 01 - Failure to obey an order and failure to go.

f. CM: none.

g. Record of SV: none.

(Discharged from Vandenberg AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (03) Mos (13) Das
 TAMS: (00) Yrs (11) Mos (24) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/04/20.
 (Change Discharge to Honorable)

Issue 1: The discharge that was issued to me is improper because it goes against my purpose for temporarily leaving the Air Force. I believe that my mistake was going about it the wrong way to get what I wanted. My issue was getting a job/career field that I thought I would be successful in was not granted to me. I understand that orders are orders but could no see someone turn my whole life around because of a mistake I made but was able to resolve. My heart & life long goals were abruptly changed to a career field that I was completely uncomfortable with. Even my superior officers admitted that my point of view was legit and wished me the best. I did not realize at the time though that me leaving the Air Force with my mildly named (?) but deterring (sic) discharge would leave me this helpless. Not to mention not being able to receive my GI Bill to at least increase my chances of employment in civilian life or advanced opportunities in the Air Force which is what I had in mind even before I left. Without this appeal I will not be able to: (1) Receive employment anywhere, (2) Receive unemployment, (3) be able to receive my GI Bill benefits even though I've paid my full cost for it. (4) Be able to even get back into the Air Force. Theres (sic) more personal intrest (sic) now denied to me but I just noted what it will take for me to survive. I have attached a resume to show why I was uncomfortable with the chosen career.

ATCH

1. Job Resume.

02/08/07/ia



DEPARTMENT OF THE AIR FORCE
30TH SPACE WING (AFSPC)

30 SEP 2001

MEMORANDUM FOR 30 SW/CO [REDACTED]

FROM: 30 SW/JA

SUBJECT: Legal Review – AFI 36-3208 Administrative Discharge Action
[REDACTED] 532 TRS (AETC)

1. The proposed administrative discharge action against [REDACTED] has been reviewed and found to be legally sufficient.
2. BASIS FOR ACTION: AFD 36-32 and AFI 36-3208, paragraph 5.49: Minor Disciplinary Infractions. [REDACTED] was notified of this action by his commander on 14 Sep 01. The commander recommends that [REDACTED] current term of service be characterized as General, Under Honorable Conditions in accordance with AFI 36-3208, paragraph 1.18. [REDACTED] waived his right to consult counsel but has submitted statements on his own behalf. (Tab 3, Attachment 3).
3. FACTS: [REDACTED] entered the Air Force on 10 Oct 00. He was assigned to the 532 TRS on 25 Jan 01 as a student.
 - (a) On or about 8 Feb 01, [REDACTED] failed his dormitory room and bathroom inspection. As a result, he received an AETC Form 341, discrepancy report, dated 8 Feb 01.
 - (b) On or about 14 Feb 01, [REDACTED] failed to report on time for morning formation. As a result, he received an AETC Form 341, discrepancy report, dated 14 Feb 01.
 - (c) On or about 13 Mar 01, [REDACTED] was derelict in the performance of his duties by willfully failing to refrain from consuming alcohol as a minor under the legal drinking age and physically controlling a passenger car while drunk. As a result, [REDACTED] received nonjudicial punishment under Article 15, UCMJ, dated 22 Mar 01. Punishment consisted of forfeiture of \$521 pay per month for 2 months, with forfeiture of the second month's pay of \$521 suspended until 2 Oct 01, after which time it would be remitted without further action, unless sooner vacated.
 - (d) On or about 14 Mar 01, [REDACTED] failed to report on time for morning formation. As a result, he received an AETC Form 341, discrepancy report, dated 14 Mar 01.
 - (e) On or about 14 Mar 01, [REDACTED] had two AETC Form 341s filed on his behalf for the same discrepancy. The discrepancy noted is being late. As a result, he received an AF Form 174, Record of Individual Counseling, dated 14 Mar 01.

(f) On 16 Mar 01, [REDACTED] was in violation of AFI 36-2903 by failing to maintain dress and personal appearance. As a result, he received an AETC Form 341, discrepancy report, dated 16 Mar 01.

(g) On 27 Mar 01, [REDACTED] was in violation of dormitory security by having a compact disc and a movie video in his room were they were visible. As a result, he received an AETC Form 341, discrepancy report, dated 27 Mar 01.

(h) On 6 Apr 01, [REDACTED] was late to morning formation. As a result, he received an AETC Form 341, discrepancy report, dated 6 Apr 01.

(i) On or about 8 Apr 01, investigation revealed that consumption of alcoholic beverages took place in [REDACTED] dormitory room while he was present. These actions are in direct violation of AETCI 36-2216, paragraph 4.4.7, Uniform Code of Military Justice Article 92, Failure to Obey an Order, and California state law. As a result, he received a Letter of Admonishment, dated 12 Apr 01.

(j) On or about 29 Apr 01, [REDACTED] was not in direct possession of one or more of his mandatory items, which include a valid military identification card, two properly filled AETC Form 341s, and a proper AF phase card. As a result, he received an AETC Form 341, discrepancy report, dated 29 Apr 01.

(k) On or about 25 May 01, [REDACTED] intentionally delayed out-processing Vandenberg AFB because he did not want to attend the Security Forces training squadron at Lackland AFB. His actions were a direct violation of Article 92, Failure to Obey an Order, and Article 86, Failure to Go, of the Uniform Code of Military Justice. As a result, he received a Letter of Reprimand, dated 8 June 01.

(l) On or about 8 Jun 01, [REDACTED] intentionally missed two detail formations at 0700 hrs and 1200 hrs. When asked, he told Charge of Quarters via telephone that he was going to attend the 576 FLTS BBQ. He was not given permission to attend the function. Additionally, he was not present at the BBQ, and stated, "I was just hanging out trying to avoid my detail." As a result, he received a Letter of Reprimand dated 12 Jun 01 and his previously suspended punishment from nonjudicial punishment under Article 15, UCMJ, dated 3 Apr 01 was vacated effective 21 Jun 01.

4. DISCUSSION:

a. This discharge action has been processed in strict compliance with AFI 36-3208, and the evidence is legally sufficient to support discharge based on minor disciplinary infractions. All of the incidents listed in the facts section above occurred in [REDACTED] current enlistment and may be used by you as a basis for discharge. [REDACTED] waived his right to consult counsel but submitted matters for your consideration. This waiver and the submitted matters can be located at Tab 3, Attachment 3.

b. In accordance with AFI 36-3208, paragraph 6.1.1, the decision to discharge should be made after careful consideration of all the facts and circumstances that make the member subject to discharge. Since [REDACTED] arrival to the unit on 25 Jan 01, he has consistently failed to demonstrate the requisite military bearing and behavior expected of Air Force members. In fact, many of his reprimands stem from his inability or unwillingness to adhere to the most basic AETC rules. What is more troubling is the deterioration of his attitude while his misconduct has grown progressively worse, culminating in the vacation of punishment on the Article 15, UCMJ, dated 22 Mar 01. In total, eight administrative tools have been employed along with an Article 15 and an Article 15 vacation of suspension action in his 10-month Air Force career. Clearly this airman's ability to function in the military environment is significantly impaired by his disrespect for authority and the inability to follow orders. Discharge is entirely appropriate.

c. [REDACTED] submitted a personal statement, a letter of appreciation, a certificate of appreciation, and several AETC Form 341s. His personal statement provided some insight into his background and admitted that he was ill prepared for military life. He also stated that he realizes that it's time to part ways with the Air Force. The other matters submitted are from various individuals recognizing some of the positive acts [REDACTED] performed during his time in the military.

d. According to AFI 36-3208, paragraph 1.17, when determining [REDACTED] characterization of service, the quality of service according to standards of acceptable conduct and personal performance of duty should be considered. In this case, [REDACTED] misconduct far outweighs any positive aspects of his service record. His repeated disciplinary infractions, often for the same offenses, indicates he simply does not deserve an Honorable discharge and should not be associated with those who have received such a discharge characterization. Characterizing [REDACTED] discharge as General, Under Honorable Conditions, is appropriate.

e. AFI 36-32008, paragraph 7.3, provides for the probation and rehabilitation of airmen subject to discharge when they have demonstrated a potential to serve satisfactorily, who have the capacity to be rehabilitated for continued service and whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline. [REDACTED] by every indication, is not a candidate for probation and rehabilitation and has not demonstrated the potential for successful continued military service. [REDACTED] was previously placed on a form of probation when a portion of his nonjudicial punishment under Article 15 was suspended. Despite [REDACTED] knowledge that his suspended punishment could still be implemented, his misconduct continued. This resulted in a vacation of his suspended punishment and demonstrates his lack of rehabilitation potential, despite our best efforts. Discharge without an offer of probation and rehabilitation is appropriate.

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

a. Direct retention based on your determination that the evidence is insufficient to support discharge;

b. Return the discharge file with direction that the action be brought under a more appropriate paragraph of AFI 36-3208;

c. Forward the discharge file to 14 AF/CC with a recommendation for an Honorable characterization of service, with or without an offer of probation or rehabilitation;

d. Direct discharge with a General, Under Honorable Conditions characterization of service, with or without and offer of probation or rehabilitation;

6. RECOMMENDATION: That you sign the letter at Tab 1 directing [REDACTED] be discharged with a General, Under Honorable Conditions characterization of service without an offer of probation or rehabilitation.

[REDACTED]
Staff Judge Advocate

USAF

Attachments:
Case File



DEPARTMENT OF THE AIR FORCE

30TH SPACE WING (AFSPC)

MEMORANDUM FOR [REDACTED]

14 SEP 2001

FROM: 532 TRS/CC

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

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 may be characterized as General, Under Honorable Conditions (General). I am recommending your discharge be characterized as General.

2. My reasons for this action are:

a. On or about 8 Feb 01, you failed your dormitory room and bathroom inspection. As a result, you received an AETC Form 341, discrepancy report, dated 8 Feb 01.

b. On or about 14 Feb 01, you failed to report on time for morning formation. As a result, you received an AETC Form 341, discrepancy report, dated 14 Feb 01.

c. On or about 13 Mar 01, you were in direct violation of Article 92, Failure to Obey an Order, and Article 111, drunken operation of a vehicle, of the United States Code of Military Justice. As a result, you received punishment under Article 15, UCMJ, dated 22 Mar 01. Punishment consisted of forfeiture of \$521.00 pay per month for two months, with one month suspended and 14 days extra duty.

d. On or about 14 Mar 01, you failed to report on time for morning formation. As a result, you received an AETC Form 341, discrepancy report, dated 14 Mar 01.

e. On or about 14 Mar 01, you received your second AETC Form 341 for failure to report on time for morning formation. As a result, you received an AF Form 174, Record of Individual Counseling, dated 14 Mar 01.

f. On or about 16 Mar 01, you were in violation of AFI 36-2903 by failing to maintain dress and personal appearance. As a result, you received an AETC Form 341, discrepancy report, dated 16 Mar 01.

g. On or about 27 Mar 01, you were in violation of dormitory security by having a compact disc and a movie video in your room where they were visible. As a result, you received an AETC Form 341, discrepancy report, dated 27 Mar 01.

h. On or about 6 Apr 01, you were late to morning formation. As a result, you received an AETC Form 341, discrepancy report, dated 6 Apr 01.

i. On or about 8 Apr 01, investigation revealed that consumption of alcoholic beverages took place in your dormitory room while you were present. These actions are in direct violation of AETCI 36-2216, paragraph 4.4.7, United States Code of Military Justice Article 92, Failure to Obey an Order, and California state law. As a result, you received a Letter of Admonishment dated 12 Apr 01.

j. On or about 29 Apr 01, you were not in direct possession of one or more your mandatory items, which included a valid military identification card, two properly filled-out AETC Form 341s, and a proper AF phase card. As a result, you received an AETC Form 341, discrepancy report, dated 29 Apr 01.

k. On or about 25 May 01, you intentionally delayed out-processing Vandenberg AFB because you did not want to attend the Security Forces training squadron at Lackland AFB. Your actions were a direct violation of Article 92, Failure to Obey an Order, and Article 86, Failure to Go, of the Uniform Code of Military Justice. As a result, you received a Letter of Reprimand dated 8 June 01.

l. On or about 8 Jun 01, you intentionally missed two detail formations at 0700 hrs and 1200 hrs, you told Charge of Quarters via telephone that you were going to attend the 576 FLTS BBQ. You were not given permission to attend the function. Additionally, you were not present at the BBQ, and stated, "I was just hanging out trying to avoid my detail." As a result, you received a Letter of Reprimand dated 12 Jun 01 and your previously suspended punishment from nonjudicial punishment under Article 15, UCMJ, dated 3 Apr 01 was vacated effective 21 Jun 01.

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 Air Force and, if discharge action is approved, how your discharge will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Furthermore, any special pay, bonuses, or education assistance 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 [REDACTED] at the Area Defense Counsel, Building 8500, ext. 6-3627/28, at TBD hours on _____. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 19 Sep 01 (3 duty days) 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 matters 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 30 MDG at TBD hours on _____.

8. Any personal information you furnish in rebuttal to this action is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the office of the Area Defense Counsel, Building 8500.

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



Attachments:

1. AETC Form 341s, dated 8 Feb 01, 14 Feb 01, and 14 Mar 01
2. RIC, dated 14 Mar 01
3. AETC Form 341s, dated 16 Mar 01, and 27 Mar 01
4. Article 15, dated 22 Mar 01
5. AETC Form 341, dated 6 Apr 01
6. LOA, dated 12 Apr 01
7. AETC Form 341, dated 29 Apr 01
8. LOR, dated 8 Jun 01
9. LOR, dated 12 Jun 01
10. AF Form 366, dated 21 Jun 01