

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE A1C	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; padding: 2px;">COUNSEL</td> <td style="padding: 2px;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td style="padding: 2px;">YES</td> <td style="padding: 2px;">NO</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px; text-align: center;">X</td> </tr> </table>	COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	YES	NO		X		ADDRESS AND OR ORGANIZATION OF COUNSEL
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION							
YES	NO							
	X							

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

ISSUES A92.37, A93.19, A94.53	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 02-10-03	CASE NUMBER FD2002-0186	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 DECISION 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 and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER 	SIGNATURE OF BOARD PRESIDENT
INDORSEMENT	DATE: 02-10-03

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

FD2002-0186

GENERAL: The applicant appeals for upgrade of discharge to honorable.

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 is denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant was discharged for minor disciplinary infractions. He had three Records of Individual Counseling, two Letters of Reprimand, three Articles 15, a vacation of suspended punishment, an Unfavorable Information File, and had been placed on the Control Roster. His misconduct included four instances of failure to go, speeding on base, drunk driving, underage drinking, being drunk on standby duty and incapacitated for duty, and disobeying a lawful order by driving on base while on suspension. At the time of the discharge, after consulting counsel, member waived his right to submit a statement in his own behalf. Applicant now states he realizes he was immature and made a few mistakes, but he would like to come back into the Air Force. 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 counseled repeatedly and placed on the Control Roster in an effort to help him correct his deficiencies. He was mature and responsible for his actions, and therefore was held accountable for them. Although he was given numerous opportunities to improve his behavior, he failed to respond to those rehabilitative efforts. No inequity or impropriety was found in this discharge in the course of the records review.

While the Board commends applicant on this desire his desire to return to military service, and is sympathetic to the impact a General discharge has on his reenlistment code, this is not a matter of equity or propriety that warrants an upgrade.

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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/06/13 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/01/11. Enlmt Age: 19 10/12. Disch Age: 22 5/12. Educ: HS DIPL
AFQT: N/A. A-41, E-56, G-50, M-59. PAFSC: 2W131E - Aircraft Armament
Systems F-15 Apprentice. DAS: 99/08/05.

b. Prior Sv: (1) AFRes 98/11/30 - 98/12/15 (16 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 98/12/16 for 6 yrs. Svd: 2 Yrs 5 Mos 28 Das, all AMS.

b. Grade Status: AMN - 01/05/29 (Article 15, 01/05/29)
A1C - 01/02/20
AMN - 00/04/20 (Vacation of Article 15, 00/07/10)
A1C - 99/01/30

c. Time Lost: None.

d. Art 15's: (1) 01/05/29, Eglin AFB FL, Article 92. You, having knowledge of a lawful written order issued by -----, to wit: not to drive any motor vehicle anywhere on Eglin Reservatoin or any other military installation for one (1) year from 13 Jun 2000, an order which it was your duty to obey, did, on or about 18 May 2001, fail to obey the same by wrongfully driving your vehicle on Eglin Air Force Base. Reduction to the grade of AMN. (No appeal) (No mitigation).

(2) 00/07/10, Vacation, Eglin AFB, FL, Article 86. You, did, on or about 17 Jun 2000, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 1360. Reduction to the grade of AMN. (No appeal) (No mitigation).

(3) 00/04/20, Eglin AFB, FL, Article 92. You, who knew of your duties, on or about 1 Apr 2000, were derelict in the performance of those duties in that you willfully failed to remain physically and mentally unimpaired through the consumption of alcohol while on standby duty, as it was your duty to do so. Article 112. You

were, at or near Eglin Air Force Base, Florida, on or about 1 Apr 2000, found drunk on duty while on standby duty as an Armament Flight Team Member for the 33rd Maintenance Squadron. Suspended reduction to the grade of AMN, and 30 days correctional custody.
(No appeal) (No mitigation)

- e. Additional: LOR, 8 AUG 00 - Failure to go.
RIC, 13 JUN 00 - Failure to meet mandatory appointment.
LOR, 6 APR 00 - Driving under the influence.
RIC, 3 NOV 99 - Speeding on base.
RIC, 19 OCT 99 - Failure to meet appointment.

f. CM: None.

- g. Record of SV: 98/12/16 - 00/08/15 Eglin AFB 2 (Initial) REF
00/08/16 - 01/02/20 Eglin AFB 4 (CRO)

(Discharged from Eglin AFB)

h. Awards & Decs: AFTR.

- i. Stmt of Sv: TMS: (2) Yrs (6) Mos (14) Das
TAMS: (2) Yrs (5) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/04/25.
(Change Discharge to Honorable)

Issue 1: When I was in the Air Force I worked hard and did everything in my power to help make things run smoothly. I know that I made a few mistakes and I realize that my actions were immature. The reason that I am requesting my Character of discharge to be changed is so that I can reenlist in the Air Force and I can't reenlist unless my discharge is changed to Honorable. I ask you to consider my request. I know that wearing the uniform is a privilege and all that I am asking is to allow me the privilege to wear that uniform again.

ATCH

1. Certificate of Training
2. Letter of Appreciation
3. Academic Achievement Awards

02/08/08/cr



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR ARMAMENT CENTER (AFMC)
EGLIN AIR FORCE BASE, FLORIDA

12 JUN 2001

MEMORANDUM FOR 96 ABW/CC

FROM: AAC/JA

SUBJECT: Legal Review, AFI 36-3208 Administrative Discharge, Amn [REDACTED]
[REDACTED] 33 MXS (ACC)

1. **LEGAL SUFFICIENCY:** I have reviewed the attached discharge package of Amn [REDACTED] (respondent) and find it legally sufficient to support an administrative discharge action for misconduct, specifically minor disciplinary infractions, under AFI 36-3208, chapter 5, section H, paragraph 5.49.
2. **INITIATION OF ACTION:** On 7 Jun 01, 1Lt [REDACTED] 33 MXS/CCQ, notified the respondent that he was recommending the respondent be administratively discharged for minor disciplinary infractions under AFI 36-3208, chapter 5, section H, paragraph 5.49. 1Lt [REDACTED] recommends that the respondent receive a general discharge without probation and rehabilitation (P&R). The respondent is not entitled to an administrative discharge board.
3. **EVIDENCE CONSIDERED FOR THE GOVERNMENT:** The respondent has served in the Air Force since 16 Dec 98 and arrived at Eglin AFB in Aug 99. Since that time, the respondent has amassed the following administrative actions:
 - a. Record of Individual Counseling, 19 Oct 99: The respondent missed initial weapons academics, a mandatory military appointment.
 - b. Record of Individual Counseling, 3 Nov 99: The respondent received a speeding ticket on base for driving his vehicle 49 mph in a 35 mph zone.
 - c. Letter of Reprimand, 6 Apr 00: On 1 Apr 00, the respondent operated a motor vehicle with BAC of .162 and was apprehended for driving while under the influence of alcohol. As a result, the respondent also received a Preliminary Suspension of Installation Driving Privileges from 96 ABW/CV, dated 1 May 00.
 - d. Article 15, 20 Apr 00: On 1 April 2000, the respondent consumed alcohol and was drunk while on standby duty.
 - e. Record of Individual Counseling, 13 Jun 00: On 5 Jun 00, the respondent failed to go to a mandatory appointment at the Security Forces office to sign paperwork dealing with his suspension of driving on Eglin AFB.

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f. Vacation Action, 10 Jul 00: On 17 Jun 00, the respondent failed to go at the time prescribed to his appointed place of duty, to wit: Bldg 1360.

g. Letter of Reprimand, 8 Aug 00: On 19 Jun 00, the respondent failed to go at the time prescribed to his appointed place of duty, to wit: the respondent was to report to the Base Hospital for an ADAPT meeting.

h. Article 15, 29 May 01: On 18 May 01, the respondent, having knowledge of a lawful written order issued by Colonel ██████████, to wit: not to drive any motor vehicle anywhere on Eglin Reservation or any other military installation for one (1) year from 13 Jun 00, an order which it was his duty to obey, did fail to obey the same by wrongfully driving his vehicle on Eglin Air Force Base.

Copies of the supporting documents are attached to the notification memorandum (Tab 1).

4. **EVIDENCE CONSIDERED FOR THE RESPONDENT:** After being advised of his rights to counsel and to submit statements, the respondent consulted counsel and waived his right to submit a statement for your consideration (Tab 3).

5. DISCUSSION:

a. Separation Criteria: As stated above, this file is legally sufficient to support a discharge action pursuant to AFD 36-22 and AFI 36-3208, chapter 5, section H, paragraph 5.49. Pursuant to this paragraph, an airman may be administratively discharged if he has engaged in a pattern of misconduct consisting solely of minor disciplinary infractions. Minor disciplinary infractions would include failure to comply with nonpunitive regulations or minor offenses under the UCMJ and usually result in informal or formal counselings, letters of reprimand, or Article 15 nonjudicial punishments. In this case, Amn ██████████ has engaged in numerous instances of minor offenses under the UCMJ and has received three Records of Individual Counseling, two Letters of Reprimand, two Article 15s, and one Vacation Action. There is ample evidence of misconduct in Amn ██████████ file to warrant this discharge action.

b. Characterization of Discharge: Discharge under paragraph 5.49 can be described as under other than honorable conditions (UOTHC), general, or honorable. An under other than honorable conditions discharge is appropriate when there has been a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. A general discharge is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's performance of duty outweigh positive aspects of the airman's military record. An honorable discharge would be appropriate when the member's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service has been so meritorious that any other characterization would be clearly inappropriate.

c. Recommended Characterization of Discharge: An honorable discharge would be inappropriate as it would, for all intents and purposes, excuse Amn ██████████'s misconduct.

However, considering [REDACTED] rank, age, and length of service, I do not recommend that he receive a UOTHC, which is the worst type of administrative discharge authorized. Without a doubt, [REDACTED] misconduct is a significant negative aspect of his duty performance that outweighs any positive aspects of his military record. Therefore, I concur with 1Lt [REDACTED] recommendation that [REDACTED] receive a general discharge.

d. Probation & Rehabilitation (P&R): The respondent is eligible for P&R under AFI 36-3208, Chapter 7. 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. However, I do not believe [REDACTED] is a good candidate for P&R. Past rehabilitative efforts exerted on the respondent have been unsuccessful despite the many attempts by [REDACTED] supervisors and commander to correct his behavior. [REDACTED] has demonstrated either an inability or unwillingness to comply with Air Force rules and standards. For these reasons, I concur with [REDACTED] non-recommendation of P&R.

6. **OPTIONS**: As the Special Court-Martial Convening Authority in this case, you have the following options:

- a. Disapprove the discharge action and retain the respondent;
- b. Approve the discharge action and separate the respondent 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 to the General Court-Martial Convening Authority the respondent's case file, along with your recommendation that the respondent receive an honorable discharge, with or without P&R.

7. **RECOMMENDATION**: For the reasons set forth above, I recommend the respondent be discharged from the United States Air Force under AFPD 36-32 and AFI 36-3208, chapter 5, section II, paragraph 5.49, with a general discharge, without P&R.

[REDACTED]
[REDACTED] Capt, USAF
Assistant Chief, Military Justice

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

[REDACTED]

[REDACTED], Lt Col, USAF
Deputy Staff Judge Advocate

Attachment:
Case File ([REDACTED])



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 33D FIGHTER WING (ACC)
EGLIN AIR FORCE BASE, FLORIDA

1 JUN 01

MEMORANDUM FOR AMN [REDACTED], FR [REDACTED], 33 MXS (ACC)

FROM: 33 MXS/CC

SUBJECT: Notification Memorandum

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 service will be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 19 Oct 99, you missed initial weapons academics, a mandatory military appointment. For this incident, you received a Record of Individual Counseling, dated 19 Oct 99.

b. On 3 Nov 99, you received a speeding ticket on base for driving your vehicle 49 mph in a 35 mph zone. For this incident, you received a Record of Individual Counseling, dated 3 Nov 99.

c. On 1 Apr 00, you operated a motor vehicle with BAC of more than 0.08 percent and were apprehended for intoxicated driving on base. For this incident, you received a Letter of Reprimand, dated 6 Apr 00. As a result, you then received a Preliminary Suspension of Installation Driving Privileges from 96 ABW/CV, dated 1 May 00.

d. You also received an Article 15, dated 20 Apr 00, for consuming alcohol and being drunk while on standby duty.

e. On 5 Jun 00, you failed to go to a mandatory appointment at the Security Forces office to sign paperwork dealing with your suspension of driving on Eglin AFB. For this incident, you received a Record of Individual Counseling, dated 13 Jun 00.

f. On 17 Jun 00, you failed to go at the time prescribed to your appointed place of duty, to wit: Bldg 1360. For this incident, you received a Vacated Suspension Action, dated 10 Jul 00, where you received a reduction in grade from A1C to Amn effective 20 Apr 00.


g. On 19 Jun 00, you failed to go at the time prescribed to your appointed place of duty, to wit: you were to report to the Base Hospital for an ADAPT meeting. For this incident, you received a Letter of Reprimand, dated 8 Aug 00.

h. On 18 May 01, you having knowledge of a lawful written order issued by [REDACTED] to wit: not to drive any motor vehicle anywhere on Eglin Reservation or any other

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military installation for one (1) year from 13 Jun 00, an order which it was your duty to obey, did, at Eglin Air Force Base, fail to obey the same by wrongfully driving your vehicle on Eglin Air Force Base. For this incident, you received an Article 15, dated 29 May 01, where you received a reduction in grade from A1C to Amn effective 29 May 01.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction 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. Special pay, bonuses, or education assistance funds 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 Cap[REDACTED] building 451, 882-4185, on **04 Jun 01**, at **1000 hours**. 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 within **3 workdays** from today 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 will complete a medical examination with the 96th Medical Group, physical examination section, on **04 Jun 01**, at **0715 hours**.
8. You have been scheduled for an appointment with the 96th Mission Support Squadron, separations section, on **04 Jun 01**, at **1400 hours**.
9. **Immediately after** completion of your 96th Mission Support Squadron separations section briefing report to the 96th Traffic Management Office with your completed AFDTTC Form 4134 or LGTT Office Form B133. If you have a **TMO pickup** it must be before **18 Jun 01**.
10. You are required to receive a briefing from the Family Support Center, building 2, prior to your separation. You have been scheduled to receive your Transition Assistance Management Program (**TAMP**) briefing on **05 Jun 01**, at **0800 hours**.
11. 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 your unit orderly room.


 , ILT, USAF
 Section Commander, 33 MXS

Attachments:

1. Supporting Documents
 - 1a. Record of Individual Counseling, dated 19 Oct 99
 - 1b. Record of Individual Counseling, dated 3 Nov 99
 - 1c. Letter of Reprimand, dated 6 Apr 00
 - 1d. Article 15, dated 20 Apr 00
 - 1e. Preliminary Suspension of Installation Driving Privileges, dated 1 May 00
 - 1f. Record of Individual Counseling, dated 13 Jun 00
 - 1g. Vacation Action, dated 10 Jul 00
 - 1h. Letter of Reprimand, dated 8 Aug 00
 - 1i. Article 15, dated 29 May 01
2. Airman's Acknowledgment