

COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO						
	X						

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

ISSUES A93.01	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
HEARING DATE 27 AUG 02	CASE NUMBER FD2002-0190	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 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: 27 AUG 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

FD02-0190

GENERAL: The applicant appeals for upgrade of discharge to Honorable and to change the RE Code.

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 does not contest the discharge. He states that he was young and immature at the time. 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 two Article 15's for being AWOL and failing to report his status and not contacting the unit to request a leave extension, and for wrongfully opening and stealing Sony compact disc games from the Post Office. In addition, he received a Letter of Reprimand for threatening language. The DRB recognized the applicant was 20 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. 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

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/07/28 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 79/09/03. Enlmt Age: 18 9/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-61, E-44, G-42, M-15. PAFSC: 8M000 - Postal Specialist. DAS: 99/05/16.

b. Prior Sv: (1) AFRes 98/06/29 - 99/01/13 (6 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 99/01/13 for 4 yrs. Svd: 01 Yrs 06 Mo 16 Das, of which AMS is 1 yr 6 mos 8 days (excludes 8 days lost time).

b. Grade Status: AB - 00/03/09 (Article 15, 00/03/09)
 AMN - 99/07/13

c. Time Lost: 00/04/09-00/04/17 (8 days)

d. Art 15's: (1) 00/05/10, Incirlik AB, Turkey - Article 86. You, did, on or about 9 Apr 00, without authority, absent yourself from your organization, and did remain so absent until on or about 17 Apr 00. Article 92. You, having knowledge of a lawful order issued by Lt Col ---, to wit: Lt Col -----'s written order, an order which it was your duty to obey, did, within the Continental United States, on or about 9 Apr 00, fail to obey the same by failing to report your status to MSgt ----- by 1200 hrs on 9 Apr 00 and not contacting the unit to request a leave extension. Restriction to the limits of Incirlik Air Base, Turkey for 45 days, and 45 days extra duty. (No appeal) (No mitigation)

(2) 00/03/09, Incirlik AB, Turkey - Article 134. You, did, on or about 25 Oct 99, wrongfully open and steal certain mail matter, to wit: ----- Compact Disc games addressed to -----, Incirlik Air Base, Turkey, which said items were then in the Incirlik Air Base Post Office, an official agency for the transmission of communications, before said items were delivered to the addressee. Reduction to AB, and forfeiture of \$200.00 pay per month for two months. (No appeal) (No

mitigation)

- e. Additional: LOR, 03 AUG 99 - Threatening language.
- f. CM: none.
- g. Record of SV: none.

(Discharged from Incirlik AB)

h. Awards & Decs: AFTR.

- i. Stmt of Sv: TMS: (02) Yrs (01) Mos (00) Das
TAMS: (01) Yrs (06) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/04/23.
(Change Discharge to Honorable and Change RE Code)

Issue 1: I am requesting an upgrade from a General Discharge Under Honorable Conditions with a reentry code of 2B to an Honorable Discharge with a reentry code of 1. During the time of my enlistment in the Armed Forces, my immaturity and youth was shown. I was an 18 year old boy trying to grow up too fast. I wasn't mature enough to understand the importance of a life long career. I got into the Air Force thinking about fast cars and money and not about my future or the importance of the career I chose. Before I found out where I was stationed, I asked my recruiter was I going to be stationed overseas. He told me that the Air Force don't send new recruits on their first assignment. Which later I found that not at all the be true. I was stationed to Incirlik AB, Turkey. At first, I was content about being there. It didn't bother me too much. As months past (sic) I got homesick, as anyone would there first time far away from home. And being so far away from home while my mother was getting weaker and weaker because of diabetes made me even more sick. My mind and heart were with her and not my job. All of my actions while in the Air Force were immature and childish, because that's what kind of min-set I had. I was a 19 year old with the mind-set of a 16 year old. I did things without thinking about the consequences of my actions. I was young and I made young mistakes. I would like to plea my case to the board and hopefully one day rejoin the Air Force and prove that people do change. Thank you for your time and concern.

ATCH
none.

-- 02/08/05/ia



DEPARTMENT OF THE AIR FORCE
39TH WING (USAFE)

FD 2002-0190

MEMORANDUM FOR 39 WG/CC

FROM: 39 WG/JA

SUBJECT: Legal Review of AFI 36-3208, Administrative Discharge - [REDACTED]

1. The attached file has been reviewed and found legally sufficient to separate Respondent, provided he is found medically fit for separation.

2. Background:

a. Respondent is 20 years old. His TAFMSD is 13 Jan 99 and he began this 4-year enlistment on 13 Jan 99. He was assigned to his present unit on 16 May 99. Respondent's overall ratings on his EPRs, from latest to earliest, are none, member has not been in the military long enough to earn a performance report.

b. Respondent's squadron commander properly notified Respondent of his recommendation to separate Respondent under AFI 36-3208, paragraph 5.49, for Misconduct - Minor Disciplinary Infractions, with a general discharge.

3. Evidence for the Government:

<u>DATE OF OFFENSE</u>	<u>OFFENSE</u>	<u>COMMAND ACTION</u>
9 Apr 00	Absent Without Authority Disobeying a Written Order	Article 15
25 Oct 99	Larceny	Article 15
2 Aug 99	Threatening Language	Letter of Reprimand

4. Evidence for the Respondent: The Respondent waived his rights to submit a statement or other evidence on his behalf.

5. Discussion: Respondent's unit took positive steps to rehabilitate him. These efforts have met with negative results as evidenced by Respondent's continued misconduct. Respondent threatened his roommate, stole items from the Official Document Center, and was absent from his unit in violation of a written order. These infractions all occurred since Respondent arrived on station in May 1999. Additionally, a mental health evaluation was conducted on Respondent on 27 September 1999. Respondent was diagnosed with Anxiety and Depressed Mood, a DSM-IV condition that interferes with military service and warrants discharge under

AFI 36-3208 paragraph 5.11. Respondent was not discharged at that time because he was under investigation for larceny at the Official Document Center. Respondent is not being discharged under paragraph 5.11 at this time IAW paragraph 5.11 which states that discharge under 5.11 is not appropriate if the member's record supports a discharge under another paragraph of the AFI. Respondent's record consists of an LOR, and two Article 15s. His record supports a discharge under paragraph 5.49 for Minor Disciplinary Infractions so discharge under paragraph 5.11 is not appropriate. I agree with the Respondent's Commander that further rehabilitative efforts are not warranted due to the number of incidents over a short period of time. The negative aspects of Respondent's term of service outweigh the positive, and therefore a general discharge is warranted.

6. As the separation authority you may:

- a. Direct retention, if you determine the evidence does not warrant discharge;
- b. Return the file for re-initiation and extend board hearing rights to Respondent, if you believe separation with an under other than honorable conditions discharge is appropriate;
- c. Direct respondent's separation with a general discharge, with or without probation, or
- d. Refer the case to 16 AF/CC, if you believe Respondent should be separated with an honorable discharge.

7. **Recommendation:** That you direct Respondent be discharged with a general discharge, without probation and rehabilitation. If you concur, a memorandum to that effect is attached for your signature.



Capt, USAF
Assistant Staff Judge Advocate

I concur/~~do not~~ concur.



Lt Col, USAF
Staff Judge Advocate

Attachment:

- 1. Action letter
- 2. Case file

FD 2002-0190



DEPARTMENT OF THE AIR FORCE
39TH WING (USAFE)

MEMORANDUM FOR AB [REDACTED]

26 Jun 00

FROM: 39 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, Section B, Paragraph 5.49. If my recommendation is approved, your service will be characterized as general (under honorable conditions).

2. My reasons for this action are:

a. On 9 April 2000, you were absent from your organization without authority until on or about 17 April 2000. Furthermore, on 9 April 2000 you failed to obey Lt C [REDACTED] order by failing to report your status to MSgt [REDACTED] by 1200 hours on 9 April 2000. For these actions you received an Article 15. (Atch 1)

b. On 25 Oct 99, you stole Sony Playstation Compact Disc games from the Incirlik Air Base Post Office which were addressed to the Army Air Force Exchange Service. For this infraction you receive an Article 15. (Atch 2)

c. On 2 Aug 99, you left a threatening letter to your roommate in which you used profane language, and you conveyed a threat to him. For this infraction you received a Letter Of Reprimand. (Atch 3)

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.

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 Bldg 948 on 27 Jun 00 at 0800 hrs. 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 03 Jul 00 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 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 39th Medical Group, Physical Exams at 0930 hrs on 30 Jun 00 for the examination.

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 at the Area Defense Counsel's office.

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



Lt Col, USAF
Commander, 39 CS

3 Atchs:

1. Article 15, dtd 10 May 00
2. Article 15, dtd 9 Mar 00
3. LOR, dtd 3 Aug 99