

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
		AB	
TYPE	PERSONAL APPEARANCE	X RECORD REVIEW	
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NO		
	X		

MEMBERS SITTING	VOLE OF THE BOARD				
	HON	GEN	BOIHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A94.45	INDEX NUMBER A67.10	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	

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.

INDORSEMENT		DATE: 4 OCT 02
TO: SAF/MIDR 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

FD02-0196

GENERAL: The applicant appeals for a change to his 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: Change to the RE Code 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 wants his RE Code changed so he can enter the Marine Corp. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to change the RE Code. The records indicated the applicant received an Article 15 for failure to go on two consecutive days and two Letters of Reprimand for malingering and illegal use of drugs. The applicants RE Code was accurately reflected as a code of 2B. 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 and the RE Code was appropriate. Applicant states that the Marine Corp will not take him because of his RE Code of 2b. The Marine Corp and the Army may waive the Air Force RE Code and enlist the applicant. A check of the Defense Manpower Data Center (DMDC) in Monterey California indicates that the applicants RE Code is listed as a 4. This is incorrect and the DRB contacted DMDC to correct the system to reflect a RE Code of 2B. The applicants DD Form 214 is correct.

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 changing the RE Code.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former AB) (HGH AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 96/10/31 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 78/10/16. Enlmt Age: 17 4/12. Disch Age: 18 0/12. Educ: HS DIPL. AFQT: N/A. A-29, E-56, G-36, M-48. PAFSC: 3P031 - Security Police Apprentice. DAS: 96/08/15.

b. Prior Sv: (1) AFRes 96/03/13 - 96/03/20 (8 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 96/03/21 for 4 yrs. Svd: 0 Yrs 7 Mos 11 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: (1) 96/10/16, Grand Forks AFB, ND, Article 86. You, did, on or about 26 Sep 96, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 515. You, did, on or about 27 Sep 96, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 515. Received 14 days extra duty. (No appeal) (No mitigation).

e. Additional: LOR, 11 OCT 96 - Illegal use of drugs.
LOR, 8 OCT 96 - Malingering.

f. CM: None.

g. Record of SV: None.

(Discharged from Grand Forks AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (0) Yrs (7) Mos (19) Das
TAMS: (0) Yrs (7) Mos (11) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/05/15.

(Change Discharge to Honorable)

Issue: I recieved (sic) this form Lt Col -----, USAF in response to an inquiry with the local Congressman, ----- . I will not be requesting counsel or a hearing to include supporting documents because of the present attention of these two high ranking officials. My current DD214 form has a RE code of 2B, which is acceptable to the USMC. When the Marine recruiter started the enlistment process he came up with an RE code of 4 in the computer system. I need this matter to be cleared up so I can complete my reenlistment. Furthermore I would like to say my decision of the Marines is no reflection on the Air Force, it is the most appropriate.

ATCH

None.

02/08/15/cr



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 319TH AIR REFUELING WING (AMC)
GRAND FORKS AIR FORCE BASE, NORTH DAKOTA

FD2002-0196

23 OCT 1996

MEMORANDUM FOR AB [REDACTED] FR [REDACTED]

FROM: 319 SPS/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or general. I recommend a general discharge.

2. My reasons for this action are:

a. On or about 26 Sep 96 and on or about 27 Sep 96, you failed to go at the time prescribed to your appointed place of duty. For this misconduct, you were punished under Article 15 on 16 Oct 96. Punishment consisted of 14 days extra duty. (Attachment A)

b. On or about 23 Aug 96, you used marijuana while home on leave which is documented in your statement. For this misconduct, you received a LOR dated 11 Oct 96, and a Unfavorable Information File entry was made. (Attachment B)

c. On or about 22 Aug 96, you feigned a mental illness and pretended to be suicidal in order to find grounds to be discharged from the Air Force, outlined in the 10 Sep 96 evaluation letter from 319 MDG/SGOMII. For this misconduct, you received a LOR dated 8 Oct 96 and an Unfavorable Information File was established. (Attachment C)

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 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. You have been scheduled an appointment at the Area Defense Counsel at Building 216 on 23 OCT 96 at walk-in 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 by 28 Oct at 1305 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 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 the 319th Medical Group on 24 OCT 96 at walk-in hours for the examination.
8. Deliver to me immediately your military identification card and those of your dependents. I have requested that temporary identification cards be issued IAW AFR 36-3001, paragraph 4.2. You will report to me by COB N/A, to verify that issuance of Temporary Identification Card(s) has been accomplished.
9. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974 as explained in the attachment to this letter. A copy of AFI 36-3208 is available for your use in the squadron orderly room.
10. Execute the attached acknowledgment and return it to me immediately.



Lt Col, USAF

Commander, 319 SPS

4 Attachments:

1. Privacy Act Statement
2. Supporting Documents
 - a. Article 15 dated 16 Oct 96
 - b. LOR/UIF dated 11 Oct 96
 - c. LOR/UIF dated 8 Oct 96
3. Airman's Acknowledgment
4. RIP



FD 2002 - 0196

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 319TH AIR REFUELING WING (AMC)
GRAND FORKS AIR FORCE BASE, NORTH DAKOTA

25 Oct 96

MEMORANDUM FOR 319 ARW/CC

FROM: 319 ARW/JA

SUBJECT: AFI 36-3208 Discharge Legal Review - AB [REDACTED]

1. I reviewed and found legally sufficient the attached AFI 36-3208 discharge package, contingent upon the inclusion of a medical report clearing the respondent for separation. The respondent is eligible for separation per AFI 36-3208, paragraph 5.49 (minor disciplinary infractions), and should be separated with a general discharge.
2. 319 SPS/CC initiated this action on 23 Oct 96 because on or about 26 Sep 96 and on or about 27 Sep 96, the respondent failed to go at the time prescribed to his appointed place of duty. For this misconduct, the respondent was punished under Article 15 of the UCMJ on 16 Oct 96. Punishment consisted of 14 days extra duty.
3. The respondent's records reflect he has committed other minor disciplinary infractions. The conduct serving as the basis for the Article 15 and these infractions comprise the bases for AB [REDACTED] discharge. He has received two previous LORs.
4. Broken down by event, AB [REDACTED] other disciplinary infractions are as follows:
 - a. The respondent used marijuana while home on leave as documented by a statement that the respondent made to a clinical social worker at the Fargo VA Hospital on 23 Aug 96. For this misconduct, he received an LOR dated 11 Oct 96 and an Unfavorable Information File entry was made.
 - b. On or about 22 Aug 96 the respondent malingered by feigning a mental illness and pretending to be suicidal in order to find grounds to be discharged from the Air Force as outlined in a mental health evaluation from 319 MDG/SGOMH dated 10 Sep 96. For this misconduct, he received an LOR dated 8 Oct 96.
5. The respondent is subject to discharge per AFI 36-3208, paragraph 5.49 (minor disciplinary infractions). A previous discharge package was served on the respondent initiating an entry level separation. However, after the initial discharge package was served, 319 SPS/CC discovered more serious misconduct by the respondent which warranted a formal characterization of his discharge rather than the no characterization discharge that would have been the result of an entry level separation. In this case, 319 SPS/CC recommends a general discharge without probation and rehabilitation.
6. The respondent is 18 years old and began his first and only four year enlistment on 21 Mar 96. He has not yet received an EPR. The respondent waived his rights to counsel and to submit statements on his own behalf. No substantive or procedural errors materially prejudice the respondent's rights in this case.

7. Since this is a notification case, the respondent may receive only an honorable or general discharge, unless you choose to refer this case to a discharge board. The respondent's disciplinary infractions are significant negative aspects of his service record which outweigh any period of satisfactory duty performance. In the relatively short period the respondent has been in the Air Force, he has shown a consistent pattern of behavior that falls far short of what is expected of an Air Force member. He has failed to meet minimum standards of duty performance and has expressed a strong desire to be discharged from the Air Force. The respondent should be discharged and a general discharge is appropriate.

8. If you determine that the allegations against the respondent support discharge and that he should be discharged, you must decide whether or not his or her discharge should be suspended for a period of probation and rehabilitation (P&R). P&R is appropriate when it appears that the affected airman can change his or her pattern of behavior. In this case, AB [redacted] has shown in a very short period of time that he does not take his responsibilities as a member of the Air Force seriously by failing to go, admitting to marijuana use and even lying to his commander and a mental health specialist concerning suicide in order to get out of the Air Force. He has shown his strong desire to leave the Air Force and probation and rehabilitation would be futile in this case. AB [redacted] retention on active duty would not be consistent with the maintenance of good order and discipline. I do not recommend this respondent receive P&R.

9. As SPCM separation authority, you may:

- a. Retain the respondent;
- b. Approve the respondent's separation with a general discharge with or without probation and rehabilitation;
- c. Forward the case to 21 AF/CC recommending separation with an honorable discharge with or without probation and rehabilitation; or
- d. Direct reinitiation of the action if you determine that an under other than honorable conditions discharge is the only appropriate service characterization in this case.

I recommend you approve the respondent's separation with a general discharge without P&R.

[redacted]
 [redacted] Capt, USAF
 Chief, Adverse Actions

I concur.

[redacted]
 [redacted] Lt Col, USAF
 Staff Judge Advocate