

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN		
[REDACTED]		AB	[REDACTED]		
TYPE	X PERSONAL APPEARANCE		RECORD REVIEW		
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO				
	X				
MEMBERS SITTING		VOTE OF THE BOARD			
		HON	GEN	UOTHC	OTHER
[REDACTED]		X*+			
[REDACTED]		X*+			
[REDACTED]		X*+			
[REDACTED]					X
[REDACTED]		X*+			
ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD			
A93.12	A67.30	1	ORDER APPOINTING THE BOARD		
		2	APPLICATION FOR REVIEW OF DISCHARGE		
		3	LETTER OF NOTIFICATION		
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE		
19 NOV 02	FD02-0213		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 RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.					
REMARKS					
Case heard at Dobbins ARB, Georgia					
Advise applicant of the decision of the Board.					
* Change Reason and Authority to Secretarial Authority.					
+ Change RE Code to 3K.					
SIGNATURE OF RECORDER		SIGNATURE OF BOARD PRESIDENT			
[REDACTED]		[REDACTED]			
INDORSEMENT		DATE: 19 NOV 02			
TO:		FROM:			
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742		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

FD2002-0213

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Dobbins ARB, GA on November 19, 2002. Mr. and Mrs. [REDACTED] the applicant's parents, appeared as witnesses.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge to Honorable is granted and reason for discharge changed to Secretarial Authority. Also, the reenlistment code is changed to 3K.

The Board finds that the evidence of record substantiates an inequity that would justify upgrade of the discharge.

ISSUES: The applicant was discharged with a General Discharge for Misconduct – Commission of a Serious Offense. The records indicated the applicant received a Special Court martial for writing 12 checks for over \$16,000. After a thorough and complete consideration of the information submitted by the applicant, the applicant's compelling personal testimony, and information contained in the record, the Board concluded that there was sufficient mitigation and extenuation to substantiate upgrade of the discharge and to change the reason for the discharge. The Board also agreed to change the applicant's reenlistment code.

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. However, in view of the foregoing findings, the Board also concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge. The applicant's characterization for discharge should be changed to Honorable and Secretarial Authority under the provisions of Title 10, USC 1553. Also, the Applicant's RE Code should be changed to 3K.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/06/23 UP AFI 36-3208, para 5.52 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 80/11/15. Enlmt Age: 17 2/12. Disch Age: 19 7/12. Educ: HS DIPL. AFQT: N/A. A-95, E-77, G-78, M-48. PAFSC: 3C031 - Communications-Computer Systems Operations. DAS: 98/11/06.

b. Prior Sv: (1) AFRes 98/02/03 - 98/06/16 (4 Mos 14 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 98/06/17 for 4 yrs. Svd: 02 Yrs 0 Mos 7 Das, of which AMS is 1 yr 11 mos 14 das (excludes 23 days lost time).

b. Grade Status: AB - 00/04/27 (SCMO Order No 6, 00/04/27)

c. Time Lost: 23 Days (19 Apr 00 - 12 May 00)

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial No. 6 - 2000 April 27.

CHARGE: Article 123a. Plea: Guilty. Finding: Guilty.

Specification 1: Did, within the Kaiserslautern Military Community, Germany, on divers occasions between on or about 31 Aug 99 and on or about 23 Sep 99, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully make to Service Credit Union, seven checks for the payment of money, drawn upon the First Command Bank, of a total amount of \$6,413.00, more or less, with said checks for amounts in excess of \$100, and signed -----, then knowing that she, the maker thereof, did not or would not have sufficient funds in or credit with said bank for the payment of said checks in full upon their presentment.

Specification 2: Did, within the Kaiserslautern Military Community, Germany, on divers occasions between on or about 8 Oct 99 and on or about 19 Oct 99, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully

make to Community Bank, five checks for the payment of money, drawn upon the First Command Bank, of a total amount of \$10,400.00, more or less, with said checks for amounts in excess of \$100, and signed -----, then knowing that she, the maker thereof, did not or would not have sufficient funds in or credit with said bank for the payment of said checks in full upon their presentment. Sentence adjudged by officer members on 19 Apr 00. Confinement for 30 days, restriction to Ramstein AB for 30 days, and reduction to the grade of AB.

g. Record of SV: 98/06/17 - 00/02/16 Ramstein AB 2 (Initial) REF

(Discharged from Maxwell AFB)

h. Awards & Decs: AFOUA, AFOLTR, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (3) Mos (28) Das
TAMS: (1) Yr (11) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/05/09.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one incident in 24 months of service.

Issue 2: The discharge was improper because it prevents any reentry into the military, even after reparations have been made.

Issue 3: The discharge was improper because I had displaied (sic) remorse, and was correcting my mistakes, which my commander said otherwise.

ATCH

1. Applicant's Letter to Board Members.
2. Copy of DD Form 214.

02/08/21/cr



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

6 Jun 00

MEMORANDUM FOR 86 AW/CC

FROM: 86 AW/JA

SUBJECT: Legal Review of Discharge - [REDACTED]

1. I have reviewed the administrative discharge action against [REDACTED] initiated on 24 May 00 by [REDACTED] 786 CS/CC, and it is legally sufficient to support discharge.

2. BASIS FOR THE ACTION: Administrative discharge action was initiated pursuant to AFI 36-3208, Section H, paragraph 5.52, *Misconduct, Commission of a Serious Offense*. The worst characterization of discharge a member may receive under this paragraph is under other than honorable conditions (UOTHC). [REDACTED] discharge is based upon the following:

a. She did, on divers occasions between on or about 31 Aug 99 and on or about 23 Sep 99, within the Kaiserslautern Military Community, GE, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully make to Service Credit Union, seven checks for the payment of money, drawn upon the First Command Bank, of a total amount of \$6,413.00 more or less, with said checks for amounts in excess of \$100.00, and signed [REDACTED] then knowing that she, the maker thereof, did not or would not have sufficient funds in or credit with said bank for the payment of said checks in full upon their presentment.

b. She did, on divers occasions between on or about 8 Oct 99 and on or about 19 Oct 99, within the Kaiserslautern Military Community, GE, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully make to Community Bank, five checks for the payment of money, drawn upon the First Command Bank, of a total amount of \$10,400.00, more or less, with said checks for amounts in excess of \$100.00, and signed [REDACTED] then knowing that she, the maker thereof, did not or would not have sufficient funds in or credit with said bank for the payment of said checks in full upon their presentment.

For the actions in 2a - 2b, she was tried and convicted by Special Court-Martial on 19 Apr 00. Punishment imposed was confinement for 30 days at the U.S. Army Correctional Facility, Mannheim, GE, restriction to Ramstein AB and Landstuhl Regional Medical Center, GE, for 30 days, and reduction to the rank of airman basic. The Convening Authority found the sentencing correct in law and fact on 8 May 00.

3. MATTERS SUBMITTED BY THE RESPONDENT: Respondent consulted counsel on 25 May 00 and submitted statements on her behalf on 31 May 00. Respondent asks that she not be discharged from the military and if discharge is deemed appropriate, that she be allowed to stay in the Air Force until after the delivery of her baby sometime in Aug 00. [REDACTED] states that she understands that what she did was wrong and that she brought shame to the Air Force, her family, her unit, and herself. She truly apologizes for her misconduct. [REDACTED] states that if given a chance, she knows she can regain the trust that the Air Force once had in her. She has taken steps to pay off all her debts and rebuild her credit. [REDACTED] also gave her word that she will not apply for another checking account.

4. DISCUSSION:

a. The respondent's commander has recommended that the respondent be separated from the United States Air Force with a general discharge under AFI 36-3208, paragraph 5.52, for misconduct, commission of a serious offense. I concur.

b. The respondent was convicted of a serious offense. She wrote approximately 12 checks for over \$16,000.00 knowing that she did not or would not have sufficient funds for payment. She asks that she not be discharged, or that if discharge is deemed appropriate, that she be allowed to stay in the Air Force until after the delivery of her baby sometime in Aug 00. However, according to [REDACTED] USAFE/SG, if AB Hollinshed receives a general discharge characterization, she will be entitled to medical treatment regarding the pregnancy and child birth, up to 6 days after the baby is born, on a space available basis at a military medical treatment facility.

5. OTHER MATTERS: Before the respondent can be discharged, she must be found medically qualified for worldwide duty in accordance with AFI 36-3208, paragraph 6.3. [REDACTED] had her medical appointment on 25 May 00 and processing should not be delayed to wait for the medical report. You may authorize the discharge, but it will not be executed until the medical report is complete.

6. CHARACTERIZATION OF SERVICE:

a. Characterization of service should be based on the quality of the member's service in the current enlistment. The respondent has one year and eleven months of military service. Her current enlistment began on 17 Jun 98 for a term of 4 years. The respondent has received one EPR with a promotion recommendation of 2.

b. The service of an airman discharged for misconduct, commission of a serious offense, may be characterized as honorable, general, or under other than honorable conditions (UOTHC). For the respondent to receive a UOTHC, this discharge action would need to be withdrawn and re-instituted as an administrative discharge board case. However, it should be noted that according to AFI 36-3208, paragraph 1.21.3, only the Secretary of the Air Force may approve of a UOTHC

in any discharge action when the sole basis for discharge is a serious offense that resulted in a conviction by a court martial that did not adjudge a punitive discharge.

c. A general characterization is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.


d. In this case, the respondent's writing of checks with the intent to defraud on divers occasions during the current enlistment constitute significant negative aspects that outweigh the otherwise positive aspects of her service. However, the nature of the respondent's actions is not such that a board of officers would likely recommend a UOTHC discharge. The respondent's commander recommends a general discharge. I agree.

7. PROBATION AND REHABILITATION: Under AFI 36-3208, Chapter 7, the member is entitled to have probation and rehabilitation (P&R) considered by the discharge authority. Approval of P&R includes ordering a discharge and then suspending it until the member has successfully completed a period of P&R. The respondent's commander does not recommend P&R because the respondent's misconduct consists of writing over \$16,000 in bad checks with the intent to defraud in a three-month period. The respondent's commander considered these incidents so serious that she preferred court-martial charges against [REDACTED]. Due to the severity of the offenses committed by the respondent's, her commander does not believe probation and rehabilitation are appropriate in this case. I concur.


8. ACTIONS WHICH MAY BE TAKEN: As the Special Court-Martial Authority, you have the following options:

- a. Direct that the respondent be retained in the USAF;
- b. Forward the case file to 3 AF/CC, recommending that the respondent be separated from the USAF with an honorable discharge, with or without P&R;
- c. Direct that the respondent be separated from the USAF with a general discharge, with or without P&R; or,
- d. Return the case file to the unit for processing as an administrative discharge board case. This would permit a service characterization of UOTHC.

9. RECOMMENDATION: Direct that the respondent be separated from the USAF with a general discharge, without P&R, by signing Attachment 1.


[Redacted], Colonel, USAF
Staff Judge Advocate

Attachments:

1. Proposed Memo for 86 AW/CC
2. Discharge Package
3. Respondent's Documentation
 - a. Airman's Receipt
 - b. Airman's Statement
 - c.  Response w/atchs



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

MEMORANDUM FOR [REDACTED] 786 CS

24 May 00

FROM: 786 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct, Commission of a Serious Offense. The authority for this action is AFD 36-32 and AFI 36-3208, paragraphs 5.52. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. You did, on divers occasions between on or about 31 Aug 99 and on or about 23 Sep 99, within the Kaiserslautern Military Community, GE, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully make to Service Credit Union, seven checks for the payment of money, drawn upon the First Command Bank, of a total amount of \$6,413.00 more or less, with said checks for amounts in excess of \$100.00, and signed [REDACTED]. [REDACTED] then knowing that you, the maker thereof, did not or would not have sufficient funds in or credit with said bank for the payment of said checks in full upon their presentment.

b. You did, on divers occasions between on or about 8 Oct 99 and on or about 19 Oct 99, within the Kaiserslautern Military Community, GE, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully make to Community Bank, five checks for the payment of money, drawn upon the First Command Bank, of a total amount of \$10,400.00, more or less, with said checks for amounts in excess of \$100.00, and signed [REDACTED]. [REDACTED] then knowing that you, the maker thereof, did not or would not have sufficient funds in or credit with said bank for the payment of said checks in full upon their presentment.

For the actions in 2a - 2b, you were tried and convicted by Special Court-Martial on 19 Apr 00 (Atch 1a). Punishment imposed was confinement for 30 days at the U.S. Army Correctional Facility, Mannheim, GE, restriction to Ramstein AB, and Landstuhl Regional Medical Center, GE, for 30 days, and reduction to the rank of airman basic. The Convening Authority found the sentencing correct in law and fact on 8 May 00 (Atch 1b).

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 USAF and if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the USAF, and any special pay, bonus, or education assistance funds 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 with [REDACTED] Area Defense Counsel, Building 2111, DSN 480-2182/2492 on 25 May 00 at 0900. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your behalf. Any statements you want the separation authority to consider must reach me by 31 May 00 at 11:00 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 submit statements in your 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 in uniform with your medical records and an escort to the Ramstein Air Base Clinic, Physical Exams, Building 2182 on 25 May 00 at 0700 for the evaluation. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them.

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 in the orderly room or via the internet.

[REDACTED] USAF
Commander

Attachments:

1. Supporting Documents:
 - a. Special Court-Martial Order, 27 Apr 00
 - b. Action of the Convening Authority, 8 May 00
2. Airman's Receipt of Notification Memorandum