






AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 		GRADE A1C	AFSN/SSAN 				
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	UOTHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A94.05		INDEX NUMBER A67.10, A49.00		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		
HEARING DATE 19 DEC 02		CASE NUMBER FD2002-0215		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 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 			SIGNATURE OF BOARD PRESIDENT 				
INDORSEMENT				DATE: 19 DEC02			
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

FD02-0215

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

The applicant's issues are listed in the attached brief.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh and that he should have been discharged for unsatisfactory progress or that he should have been discharged in June 2000. The record shows that the applicant received an Article 15 for failure to go. In addition, he also received three Letters of Reprimand for failure to go, and failure to meet dress and appearance standards, five Letters of Individual Counseling for failure to go (three times), failure to maintain room in inspection order, a Memorandum For Record for failure to meet dress and appearance standards, and two Reports of Course Examination for failure to progress in On-The-Job training. If the applicant can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise this right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community. The board concluded the misconduct was a significant departure from conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge and that the characterization of the discharge received by the applicant was found to be appropriate.

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 01/12/19 UP AFI 36-3208, para 5.49 & 5.26.3 (Misconduct - Minor Disciplinary Infractions & Unsatisfactory Progress in On-The-Job Training). Appeals for Change to Discharge Reason, Authority for Discharge, and RE Code.

2. **BACKGROUND:**

a. DOB: 79/10/19. Enlmt Age: 19 1/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-56, E-60, G-46, M-63. PAFSC: 3P031 - Security Forces Apprentice. DAS: 99/07/20.

b. Prior Sv: (1) AFRes 98/12/18 - 99/03/02 (2 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 99/03/03 for 4 yrs. Svd: 03 Yrs 09 Mos 17 Das, all AMS.

b. Grade Status: A1C - 01/03/15
AMN - 99/09/03

c. Time Lost: None.

d. Art 15's: (1) 00/06/07, MacDill AFB, FL - Article 86. You, did, on or about 2 Jun 00, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 6th Security Forces Squadron, Building 528. You, did, on or about 10 May 00, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Initial Chemical Warfare Training Appointment, Building 172. Restriction to MacDill AFB, Florida for 30 days, 15 days extra duty, and a reprimand. Suspended reduction to AB, and a reprimand. (No appeal) (No mitigation)

e. Additional: ROCE, 22 JUN 01 - Failure to progress in On-The-Job training.
LOC, 15 MAY 01 - Failure to go.
ROCE, 21 MAR 01 - Failure to progress in On-The-Job training.
LOR, 07 APR 00 - Failure to go.
LOR, 16 DEC 99 - Failure to go.
LOR, 02 NOV 99 - Failure to meet dress & appearance standards.

LOC, 29 OCT 99 - Failure to maintain room in inspection order.
 MFR, 29 OCT 99 - Failure to meet dress & appearance standards.
 LOC, 18 SEP 99 - Late for duty.
 LOC, 18 SEP 99 - Failure to go.
 LOC, 10 JAN 99 - Failure to go.

f. CM: none.

g. Record of SV: 99/03/03 - 00/11/02 MacDill AFB 2 (Initial)REF
 00/11/03 - 01/03/14 MacDill AFB 4 (Cmdr Dir)

(Discharged from MacDill AFB, FL)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (03) Yrs (00) Mos (02) Das
 TAMS: (02) Yrs (09) Mos (17) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/04/22.
 (Change Reason and Authority for Discharge and RE Code)

Issue: I feel the reason for my discharge should be changed from misconduct, to failure to progress. The last documentation of misconduct was recorded in Jun 00. I was given an Article 15, for failure to report to appointments. I was discharged in Dec 01, after I failed my CDC's for a second time. Now if I was being discharged for misconduct it should have been in Jun 00, when I was (sic) received my Article 15. I would also like my reentry code to be changed from 2B to another that would allow me to join another branch of the military such as; Army, Marines, or Navy. I was given a general (Under Honorable Conditions) discharge and do not believe that under this discharge I (sic) should not have been for misconduct. Thank you for reviewing this.

ATCH
 None.

02/08/20/ia



DEPARTMENT OF THE AIR FORCE
6TH AIR MOBILITY WING (AMC)
MACDILL AIR FORCE BASE, FLORIDA

17 DEC 2001

MEMORANDUM FOR 6 AMW/CC

FROM: 6 AMW/JA

SUBJECT: Legal Review of Administrative Discharge Case
[REDACTED]

1. INTRODUCTION: On 30 Nov 01, [REDACTED] Commander, 6th Security Forces Squadron, initiated discharge proceedings against [REDACTED] under the provisions of AFPD 36-32 and AFI 36-3208, Chapter 5, Sections E & H, Paragraphs 5.26.3 and 5.49 for failure to progress in On-Job Training (OJT) and Minor Disciplinary Infractions. [REDACTED] recommended that [REDACTED] receive an under honorable conditions (general) discharge, without probation and rehabilitation (P&R). [REDACTED] consulted counsel and has waived his right to submit a written statement on his behalf in response to the discharge package (Tab 3). This case has been processed by the notification procedure described in AFI 36-3208, Chapter 6, Section B. No errors or irregularities affecting any substantial right of the respondent have been noted in the case file.

2. PERSONAL DATA: [REDACTED] is 22 years old and has been on active duty for approximately 2 years and 9 months. He was assigned to his present squadron on 20 Jul 99. [REDACTED] last EPR with a close-out date of 5 Dec 01, had an overall rating of 2 and was a referral report. He has one other EPR, with a close-out date of 21 Aug 01 and an overall rating of 4. The highest rank held by [REDACTED] is his current rank, airman first class (E-3). [REDACTED] is authorized to wear the Air Force Outstanding Unit Award and the Air Force Training Ribbon.

3. LEGAL SUFFICIENCY: The evidence of record is legally sufficient to support the administrative discharge of [REDACTED] pursuant to AFI 36-3208, Chapter 5, Sections E & H, Paragraphs 5.26.3 and 5.49, for failure to progress in On-Job Training (OJT) and Minor Disciplinary Infractions.

a. **CRITERIA:** Paragraph 5.26.3 provides that airmen are subject to discharge for unsatisfactory performance based on documented failure to meet Air Force standards, to include failure to progress in On-Job Training (OJT). Paragraph 5.49 provides that a pattern of misconduct consisting solely of these infractions in the current enlistment makes an airman subject to discharge.

b. EVIDENCE:**(1). For Failure to Progress in OJT:**

(a). On 19 Jun 01, [REDACTED] failed to make satisfactory progress by failing his Career Development Course (CDC) 3P051 exam, as recorded on a Report of Course Examination, dated 22 Jun 01, on the Commander's Evaluation, dated 17 Jul 01, and the Training History Report, dated 26 Jun 01 (Tabs B, C, D).

(b). On 15 May 01, [REDACTED] failed to make satisfactory progress by failing his CDC 3P051 exam, as recorded on a Report of Course Examination, dated 21 May 01, on the Commander's Evaluation, dated 6 Jun 01, and the Training History Report, dated 21 May 01 (Tabs E, F, G).

(c). Other documentation taken into consideration when recommending discharge is included as attachments to this notification letter. Those documents are as follows: Results of Air Force Reading Achievement Test administered on [REDACTED], dated 31 May 01 (Tab H), "Second Time" Exam Failure Checklist, a five (5) page document (Tab I), and "First Time" Exam Failure Checklist, a six (6) page document (Tab J).

(2). For Minor Disciplinary Infractions:

(a). On 15 May 01, [REDACTED] failed to report at the time prescribed to his appointed place of duty. This incident resulted in a Letter of Counseling, dated 15 May 01 (Tab K).

(b). On 2 Jun 00 and 10 May 00, [REDACTED] failed to report at the time prescribed to his appointed place of duty. These incidents resulted in Nonjudicial Punishment under Article 15, Uniform Code of Military Justice, dated 6 Jul 00 (Tab L).

(c). On 26 Jun 00, [REDACTED] was not recommended for promotion to the grade of airman first class (E-3) for displaying a pattern of misconduct (Tab M).

(d). On 27 Mar 00, [REDACTED] failed to report at the time prescribed to his appointed place of duty. This incident resulted in a Letter of Reprimand, dated 7 Apr 00 (Tab N).

(e). On 16 Dec 99, [REDACTED] failed to report at the time prescribed to his appointed place of duty. This incident resulted in a Letter of Reprimand, dated 16 Dec 99 (Tab O).

(f). On 1 Nov 99, [REDACTED] failed to meet the standards set forth by AFI 36-2903 on neatness, cleanliness or military image of his service dress uniform. This incident resulted in a Letter of Reprimand, dated 2 Nov 99 (Tab P).

(g). On 26 Oct 99, [REDACTED] failed to maintain standards of discipline in regards to maintenance of government quarters and facilities. This incident resulted in a Letter of Counseling, dated 29 Oct 99 (Tab Q).

(h). On 24 Oct 99, [REDACTED] failed to meet the standards set forth by AFI 36-2903 on neatness, cleanliness or military image of his battle dress uniform. This incident resulted in a Memorandum for Record, dated 29 Oct 99 (Tab R).

(i). On 15 Aug 99, 6 Sept 99, and 16 Sept 99, [REDACTED] failed to report at the time prescribed to his appointed place of duty. These incidents to result in a Letter of Counseling, dated 18 Sept 99 (Tab S).

(j). On 20 Dec 99, [REDACTED] failed to report at the time prescribed to his appointed place of duty. This incident resulted in a Letter of Counseling, dated 10 Jan 99 (Tab T).

c. RESPONSE: [REDACTED] waived his right to submit written statements (Tab 3).

d. PREPROCESSING REHABILITATION: [REDACTED] unit and supervisors made repeated efforts to assist him in meeting the minimum knowledge requirement for his career field. These efforts included having his reading and study skills assessed by the MacDill Adult Education Center, entering [REDACTED] in remedial classes in reading and study skills, affording him sufficient time to study his CDC volumes, and reviewing his study efforts prior to the end-of-course exams. In addition, [REDACTED] was assigned oral/written quizzes daily, and was provided two hours of supervised study daily. Based on all of these steps by [REDACTED] unit, the preprocessing rehabilitative requirements of AFI 36-3208, Chapter 5, Paragraph 5.2, have been satisfied, and discharge action is appropriate at this time.

4. CHARACTER OF DISCHARGE: Because [REDACTED] is being recommended for discharge based on failure to progress in On-Job Training (Chapter 5, Section E of AFI 36-3208) and Minor Disciplinary Infractions (Chapter 5, Section H of AFI 36-3208), his service can be characterized as honorable or under honorable conditions (general) conditions.

a. CRITERIA: Characterization of discharge will be determined solely by the member's military record during the current enlistment. An honorable discharge is appropriate when the quality of an airman's service generally has met Air Force standards of acceptable conduct and performance of duty, or when a member's service is otherwise so meritorious that any other characterization would be inappropriate. A general discharge is a separation under honorable conditions and is appropriate when significant negative aspects of the airman's conduct or performance outweigh positive aspects of the airman's military record.

b. DISCHARGE CHARACTERIZATION IN THIS CASE: Based upon the nature of the respondent's service history and the provisions of AFI 36-3208, an under honorable conditions (general) discharge would be the most appropriate characterization for the respondent's service.

5. PROBATION AND REHABILITATION: The separation authority may offer probation and rehabilitation (P&R) in cases where there seems to be a reasonable expectation of rehabilitation.

a. CRITERIA: The concept of rehabilitation in the Air Force is based on conditional suspension of an administrative discharge in appropriate cases in order to give the member a chance to show that he or she is able to meet Air Force standards. This is done whenever the

circumstances of the case make it reasonably possible to do so and (1) the airman has demonstrated a potential to serve satisfactorily; (2) the airman has the capacity to be rehabilitated for continued military service or for completion of the current enlistment and return to civilian life without the stigma of a discharge for cause; and (3) the airman's retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force.

b. P&R IN THIS CASE: The respondent's commander has not recommended the respondent receive P&R.

6. OPTIONS: As the Convening Authority, you may:

- a. Direct that the respondent be discharged from the United States Air Force with an honorable discharge, with or without an offer of P&R;
- b. Direct that the respondent be discharged from the United States Air Force with an under honorable conditions (general) discharge; or
- c. Direct that the respondent be retained in the United States Air Force, if you determine that the recommendation for discharge of the respondent is not supported by the evidence.

7. RECOMMENDATION: Based on my review of the case file, I recommend that [redacted] be separated with an under honorable conditions (general) discharge, without an offer of P&R. Should you concur, a letter to implement this recommendation is attached.

[redacted signature]
USAF
Chief Military Justice

[redacted signature]
USAF
Deputy Staff Judge Advocate

I concur.



FD2002-0215

DEPARTMENT OF THE AIR FORCE
6TH AIR MOBILITY WING (AMC)
MACDILL AIR FORCE BASE, FLORIDA

NOV 30 2001

MEMORANDUM FOR [REDACTED]

FROM: 6 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Failure to Progress in On-Job-Training (OJT) and Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Sections E & H, paragraphs 5.26.3 and 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are as follows:

A. For Failure to Progress in OJT:

1. On 19 Jun 01, you failed to make satisfactory progress by failing your Career Development Course (CDC) 3P051 exam, as recorded on a Report of Course Examination, dated 22 Jun 01, on the Commander's Evaluation, dated 17 Jul 01, and the Training History Report, dated 26 Jun 01 (Tabs B, C, D).

2. On 15 May 01, you failed to make satisfactory progress by failing your CDC 3P051 exam, as recorded on a Report of Course Examination, dated 21 May 01, on the Commander's Evaluation, dated 6 Jun 01, and the Training History Report, dated 21 May 01 (Tabs E, F, G).

3. Other documentation taken into consideration when recommending discharge is included as attachments to this notification letter. Those documents are as follows: results of Air Force Reading Achievement Test administered on [REDACTED], dated 31 May 01 (Tab H), "Second Time" Exam Failure Checklist, a five (5) page document (Tab I), and "First Time" Exam Failure Checklist, a six (6) page document (Tab J).

B. For Minor Disciplinary Infractions:

1. On 15 May 01, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in a Letter of Counseling, dated 15 May 01 (Tab K).

2. On 2 Jun 00 and 10 May 00, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in Nonjudicial Punishment under Article 15, Uniform Code of Military Justice, dated 6 Jul 00 (Tab L).

AMC--GLOBAL REACH FOR AMERICA

3. On 26 Jun 00, you were not recommended for promotion to the grade of airman first class (E-3) for displaying a pattern of misconduct (Tab M).

4. On 27 Mar 00, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in a Letter of Reprimand, dated 7 Apr 00 (Tab N).

5. On 16 Dec 99, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in a Letter of Reprimand, dated 16 Dec 99 (Tab O).

6. On 1 Nov 99, you failed to meet the standards set forth by AFI 36-2903 on neatness, cleanliness or military image of your service dress uniform. This incident resulted in a Letter of Reprimand, dated 2 Nov 99 (Tab P).

7. On 26 Oct 99, you failed to maintain standards of discipline in regards to maintenance of government quarters and facilities. This incident resulted in a Letter of Counseling, dated 29 Oct 99 (Tab Q).

8. On 24 Oct 99, you failed to meet the standards set forth by AFI 36-2903 on neatness, cleanliness or military image of your battle dress uniform. This incident resulted in a Memorandum for Record, dated 29 Oct 99 (Tab R).

9. On 16 Sept 99, you failed to report at the time prescribed to your appointed place of duty. You were verbally counseled for being late on 15 Aug 99 and 6 Sept 99 causing this incident to result in a Letter of Counseling, dated 18 Sept 99 (Tab S).

10. On 20 Dec 99, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in a Letter of Counseling, dated 10 Jan 99 (Tab T).

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 (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, and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult counsel. Military counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] on 3 Dec 01 at 1000 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 5 Dec 01 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 6th Medical Group Hospital - Physical Exams, at 1400 hours on 4 Dec 01 for the examination. You must report to the Physical Exams Section 30 minutes prior to pick up your DD Form 2697.
- 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.
- 9. Execute the attached acknowledgment and return it to me immediately.


 USAF
 Commander, 6th Security Forces Squadron

Attachments:

- a. Respondent's Acknowledgment
- b. Report of Course Examination, dated 22 Jun 01
- c. Commander's Evaluation, dated 17 Jul 01
- d. Training History, dated 26 Jun 01
- e. Report of Course Examination, dated 21 May 01
- f. Commander's Evaluation, dated 6 Jun 01
- g. Training History, dated 21 May 01
- h. Results of Air Force Reading Achievement Test, dated 31 May 01
- i. "Second Time" Exam Failure Checklist (5 pgs)
- j. "First Time" Exam Failure Checklist (6 pgs)
- k. Letter of Counseling, dated 15 May 01
- l. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 6 Jul 00
- m. Notification of Non-recommendation for Promotion, dated 26 Jun 00
- n. Letter of Reprimand, dated 7 Apr 00
- o. Letter of Reprimand, dated 16 Dec 99
- p. Letter of Reprimand, dated 2 Nov 99
- q. Letter of Counseling, dated 29 Oct 99
- r. Memorandum for Record, dated 29 Oct 99
- s. Letter of Counseling, dated 18 Sept 99
- t. Letter of Counseling, dated 10 Jan 99