

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	BOOTH	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A94.05	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 22 OCT 02	CASE NUMBER FD2002-0218	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.

INDORSEMENT	DATE: 22 OCT 02
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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

FD02-0218

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

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 believes he was given the opportunity to end his term of service and that he left on his own will and was not kicked out of the armed forces due to misconduct. The record indicates the applicant received an Article 15 for being AWOL for three days; a Vacation action of a suspended reduction in grade for failure to pay just debts; three Letters of Reprimand for failure to carry automobile insurance, failure to pay debts, and driving his vehicle without insurance; three Letters of Counseling for failure to go, failure to account for tools, and failure to pay debts; and a Memorandum for Record for speeding, having expired tags, and no insurance. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. 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 or change the reason for 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 AMN) (HGH A1C) MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 95/08/16 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 74/05/06. Enlmt Age: 18 9/12. Disch Age: 21 3/12. Educ: HS DIPL. AFQT: N/A. A-46, E-56, G-37, M-74. PAFSC: 2A632 - Aerospace Ground Equipment Apprentice. DAS: 94/07/28.

b. Prior Sv: (1) AFRes 93/02/18 - 94/01/30 (11 Mos 13 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 94/01/31 for 4 yrs. Svd: 1 Yr 6 Mos 16 Das, all AMS.

* Examiner's Note: No DD Form 4 in file to verify entry grade and date of rank to AMN. It appears, applicant entered active duty as AB and he was promoted to AMN upon completion of technical training school.

b. Grade Status: AMN - 95/06/26 (Vacation of Article 15, 95/07/20)
A1C - 95/05/31
*AMN - 94/05/31

c. Time Lost: 24 Days (3-5 Jun; 21 Jul - 10 Aug).

d. Art 15's: (1) 95/07/20, Vacation, Cannon AFB, NM, Article 134. You, being indebted to AAFES in the sum of \$438.45 for miscellaneous purchases, from on or about 6 Jun 95, to on or about 6 Jul 95, dishonorably fail to pay said debt. Reduction to the grade of AMN. (No appeal) (No mitigation).

(2) 95/06/26, Cannon AFB, NM, Article 86. You, did, on or about 3 Jun 95, without authority, absent yourself from your unit, to wit: Cannon Air Force Base, New Mexico, 27th Equipment Maintenance Squadron, building 22, and did remain so absent until on or about 5 Jun 95. Suspended reduction to the grade of AMN, forfeiture of \$150 pay per month for 2 months, and 30 days extra duty. (No appeal) (No mitigation).

e. Additional: LOR, 21 AUG 95 - Failure to carry automobile insurance.

LOR, 20 JUL 95 - Driving vehicle without insurance.

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LOR, 17 JUL 95 - Failure to pay debts.

LOC, 21 JUN 95 - Failure to go.

LOC, 5 JAN 95 - Failure to account for tools.

LOC, 20 OCT 94 - Failure to pay debt.

f. CM: None.

g. Record of SV: None.

(Discharged from Cannon AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (28) Das

TAMS: (1) Yr (6) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/05/10.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF

ATCH

1. Applicant's Issues.

02/08/22/CR

MEMORANDUM FOR 27 FW/CC

11 5 AUG 1995

FROM: 27 FW/JA (Capt Beckstrom)

SUBJECT: Legal Review of proposed AFI 36-3208 Discharge Action under AFPD 36-32 (Amn [REDACTED] FR [REDACTED], 27 EMS)

1. I have reviewed the attached discharge action on Amn [REDACTED] and find it factually, procedurally, and legally sufficient. The initiating commander recommends discharge for Misconduct, specifically, Minor Disciplinary Infractions. This case meets the criteria for discharge under AFI 36-3208, paragraph 5.49 and is supported by a preponderance of the evidence. The commander recommends a General Discharge. This member is not entitled to a hearing before an administrative discharge board.

2. DISCUSSION:

a. In support of this action, the commander cites the following reasons: Amn [REDACTED] failed to carry automobile insurance and received four motor vehicle citations in a 2 month period, failed to pay his just debts, was absent without leave (AWOL), failed to control tools that he was responsible for, and failed to go. This misconduct was evidenced by an Article 15, three Letters of Reprimand, and three Record of Individual Counselings.

b. The Respondent's service should be characterized as General. The significant negative aspects of his conduct outweigh the positive aspects of his record. The Respondent's service is not otherwise so meritorious that an Honorable Discharge is appropriate. On the other hand, the Respondent's misconduct is not so severe as to warrant an Under Other Than Honorable Conditions characterization. Separation is warranted because of respondent's failure to comply with Air Force standards and because of his failure in all previous rehabilitative efforts. Probation and rehabilitation are not warranted when respondent has already been afforded sufficient opportunity to overcome his deficiencies without success.

c. Probation and rehabilitation are not appropriate in this case. The Respondent's commander has already used most available rehabilitative tools without effect.

d. The Respondent elected not to submit a statement after consulting counsel on 18 Jul 95.

3. ERRORS AND IRREGULARITIES: None.

4. OPTIONS OF THE SPECIAL COURT-MARTIAL CONVENING AUTHORITY. You may:

- a. Retain the Respondent in the Air Force;
- b. Recommend to the General Court-Martial Convening Authority that the Respondent be discharged because of Misconduct, for the reasons alleged by the commander, with an Honorable Discharge, with or without probation and rehabilitation;
- c. Discharge the Respondent because of Misconduct, for the reasons stated by the commander, with a General Discharge, with or without probation and rehabilitation;
- d. Direct the unit to reinitiate the action to be processed under board hearing procedures if you determine an Under Other Than Honorable Conditions Discharge may be warranted.

If you determine a General Discharge is appropriate, you are the final authority in this matter and your action will result in a final determination. If you recommend approval of an Honorable Discharge, you must forward the case file to the discharge authority, 8AF/CC, along with a statement of reasons why the case warrants the issuance of such a characterization.

5. RECOMMENDATION: I find that the reasons listed in the commander's report are sufficient to warrant discharge under AFI 36-3208, paragraph 5.49. Accordingly, I recommend that Amn [REDACTED] be discharged from the United States Air Force with a General Discharge without probation and rehabilitation.

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

Attachments

1. CC App Ltr
2. Amn [REDACTED] Waiver/Statement
3. Case File

lr.doc



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 27th FIGHTER WING (ACC)
CANNON AIR FORCE BASE, NEW MEXICO

FD 2002-0218

15 AUG 1995

MEMORANDUM FOR AMN [REDACTED], FR [REDACTED], 27 EMS

FROM: 27 EMS/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, paragraph 5.49. 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. Between on or about 1 May and 21 Jul 95, you received four traffic citations, two of which were for failure to carry insurance, as evidenced by a Letter of Reprimand, dated 11 Aug 95 (Atch 1a).

b. On or about 6 Jun 95, you failed to pay your just debt to AAFES, as evidenced by a Vacation of Suspension, dated 20 Jul 95 (Atch 1b).

c. On or about 13 Jul 95, you failed to provide full insurance coverage on your vehicle, which caused a default in your contract with Cannon Federal Credit Union, as evidenced by a Letter of Reprimand, dated 20 Jul 95 (Atch 1c).

d. On or about 14 Jul 95, you failed to pay your just debt to Midtown Credit, as evidenced by a Letter of Reprimand, dated 17 Jul 95 (Atch 1d).

e. On or about 3 Jun 95, you without authority, were absent without leave, as evidenced by an Article 15, dated 27 Jun 95 (Atch 1e).

f. On or about 15 May 95, you failed to go to your scheduled Career Development Course test, as evidenced by a Letter of Counseling, dated 21 Jun 95 (Atch 1f).

g. On or about 5 Jan 95, you failed to control tools that were your responsibility, as evidenced by a Letter of Counseling, dated 5 Jan 95 (Atch 1g).

h. On or about 18 Oct 94, you failed to pay your just debt to AAFES, as evidenced by a Letter of Counseling, dated 20 Oct 94 (Atch 1h).

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 Captain [REDACTED] at building 327, ext 2915 on 18 Jul 95 at [REDACTED] 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.
SPS
15 Jul 95
7. You completed a medical examination at the 27th Medical Group on 24 Jul 95.
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 your unit orderly room.

[REDACTED]
[REDACTED] 2Lt, USAF
Section Commander

Attachments:

1. Supporting Documents
2. Other Derogatory Data
3. Airman's Acknowledgment