

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
AMN		

TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
-------------	----------------------------	------------------------

COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">YES</td> <td style="width: 50%; padding: 2px;">NO</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px; text-align: center;">X</td> </tr> </table>	YES	NO		X		
YES	NO					
	X					

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

ISSUES A93.09	INDEX NUMBER A67.90	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		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	
CASE NUMBER FD2002-0231		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
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

FD02-0231

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 does not contest the discharge; she states that she did not fully understand her rights. The record indicates the applicant received an Article 15 for obtaining information protected by the Privacy Act from the orderly room and used it for her own personal purposes, with intent to defraud and wrongfully obtained telephone services. She also received an Article 15 for failing to refrain from using a government telephone for long distance personal calls. In addition, she received three Letters of Reprimand for being disrespectful; misuse of a government credit card; and for being AWOL; and two Memorandums for Record for misusing a government telephone. The applicant was given the proper notification memorandum and legal counsel and this case is factually, procedurally, and legally sufficient to sustain the finding that the applicant's characterization was proper. The DRB opined that through these administrative actions, the applicant had ample opportunities to change her 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)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 98/04/16 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 73/04/11. Enlmt Age: 21 10/12. Disch Age: 25 0/12. Educ:HS DIPL. AFQT: N/A. A-60, E-43, G-48, M-24. PAFSC: 3S031 - Personnel Apprentice. DAS: 95/08/11.

b. Prior Sv: (1) AFRes 95/03/01 - 95/04/25 (1 month 25 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 95/04/26 for 4 yrs. Extended 97/05/05 for 4 months. Svd: 02 Yrs 11 Mo 21 Das, all AMS.

b. Grade Status: AMN - 98/01/28 (Article 15, 98/01/28)

c. Time Lost: none.

d. Art 15's: (1) 98/01/28, Davis-Monthan AFB, AZ - Article 92. You, who knew or should have known of your duties, at or near Fort Huachuca, Arizona, in or near June 1997, were derelict in the performance of those duties in that you willfully obtained information protected by the Privacy Act from the orderly room and used it for your own personal purposes. Article 134. You, did, at or near Fort Huachuca, Arizona, in or near June 1997, with intent to defraud, falsely pretend to ----- that you were -----, then knowing the pretenses were false, and by means thereof did wrongfully obtain from ----- phone services, of a value of about \$138.51. Article 134. You, did, at or near Fort Huachuca, Arizona, in or near June 1997, with intent to defraud, falsely pretend to ----- that you were -----, then knowing the pretenses were false, and by means thereof did wrongfully obtain from ----- phone services, of some value. Article 134. You, did, at or near Fort Huachuca, Arizona, in or near June 1997, with intent to defraud, falsely pretend to ----- that you were ----, then knowing the pretenses were false, and by means thereof did wrongfully obtain from ----- phone services, of some value. Reduction to Amn. (No appeal) (No mitigation)

(2) 97/05/16, Davis-Monthan AFB, AZ - Article 92. You, who knew or should have known of your duties, were, at or near Fort Huachuca, Arizona, between on or about 1 May 97 and on or about 31 Mar 97, derelict in the performance of those duties in that you willfully failed to refrain from using the government telephone for long distance personal calls, as it was your duty to do. Suspended reduction to Airman, and 7 days correctional custody. (No appeal) (No mitigation)

e. Additional: LOR, 05 MAY 97 - Disrespect.
 LOR, 07 APR 97 - Misuse of government credit card.
 MFR, 03 AUG 96 - Misuse of government telephone.
 LOR, 24 JUL 96 - Absent without leave from place of duty.
 MFR, 13 JUN 96 - Misuse of government telephone.

f. CM: none.

g. Record of SV: 95/04/26 - 96/10/15 Fort Huachuca AIN 4 (HAF Dir)
 96/10/16 - 97/10/15 Fort Huachuca AIN 2 (Annual) REF

(Discharged from Davis-Monthan AFB)

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

i. Stmt of Sv: TMS: (03) Yrs (01) Mos (16) Das
 TAMS: (02) Yrs (11) Mos (21) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/05/21.
 (Change Discharge to Honorable)

Issue 1: All statement listed were not true. I was afraid to say otherwise.

Issue 2: I was told I would be court martialed. I did not fully understand my rights. But regardless of that. I am now a 29 year old single mother. I want to be successful for my daughter and myself. Education is the only answer. I've done some stupid things in my life and in my military career. I have matured and I have changed my life for the better. I want to be successful (sic) the right and legal way. I regret the choices I made in the past. I will make better choices in my and my daughter's future and I need my G.I. Bill to help me. I respectfully request an Honorable Discharge despite the untruths of any statements because I wish to be an asset to my daughter and society as well. I want to live right, please allow me another opportunity to do well for me and my daughter's well being.

ATCH

1. Standard Form 180.

02/09/03/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

13 February 1998

MEMORANDUM FOR 17 TRW/CC

FROM: 17 TRW/JA

SUBJECT: AFI 36-3208 Involuntary Discharge—A1O [REDACTED], FR [REDACTED]
314 TRS (AETC)

1. We have reviewed the referenced action in accordance with AFI 36-3208, paragraph 5.50.2. We find it factually, procedurally, and legally sufficient to sustain a finding that Respondent should be discharged for conduct prejudicial to good order and discipline.

2. FACTS: Respondent has engaged in a pattern of serious misconduct. In June 1996, Respondent used government phones to make unofficial long distance calls. She was verbally counseled (recorded on a Memo for Record). Respondent was absent without leave from her place of duty from 15 to 17 July, for which she received a Letter of Reprimand. Also in July, she used her supervisor's government phone for a personal telephone conversation, for which she was verbally counseled (recorded on a Memo for Record). In November 1996 and January 1997, she misused the ATM privileges of her government American Express Card. She received a Letter of Reprimand. In March, she again used government phones for unofficial long distance calls, for which she received an Article 15. In April, she was involved in an altercation in which she was extremely disrespectful to a superior (Senior Airman). She received a Letter of Reprimand. In June, she obtained Privacy Act Information (social security numbers and names) from the orderly room and used the information to fraudulently obtain phone services, for which she received an Article 15 in January 1998.

3. UNIT RECOMMENDATIONS: The unit commander has recommended an Under Other Than Honorable Conditions (UOTHC) Discharge without probation and rehabilitation.

4. RESPONSE BY RESPONDENT: Respondent has consulted counsel and waived her rights to a discharge board and to submit statements.

5. ANALYSIS:

a. Paragraph 5.50.2 provides that airmen are subject to discharge for misconduct for conduct of a nature that tends to disrupt order, discipline, or morale within the military community, causes degradation of the mission, and tends to bring discredit on the Air Force. Respondent's abuse of private information available to her in her position in the orderly room is

clearly counter to mission effectiveness and morale. Her complete lack of integrity and self-discipline when placed in a position of trust demonstrate the exact opposite of the core values of the Air Force.

b. Respondent is eligible for an Honorable, a General, or an Under Other Than Honorable Conditions (UOTHC) Discharge. An UOTHC Discharge is appropriate when the reason for separation is based on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. If an UOTHC characterization is not warranted, a General Discharge is appropriate when the 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 record. An Honorable Discharge is appropriate when the airman has generally met Air Force standards of acceptable conduct and performance of duty or when a member's service is so meritorious that any other characterization would be inappropriate. We concur in the unit commander's recommendation that Respondent receive an UOTHC Discharge.

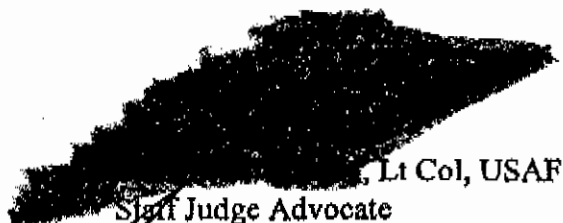
c. We concur with the unit commander's recommendation that probation and rehabilitation is not appropriate. Respondent has been given several opportunities to improve and has repeatedly shown her unwillingness to do so.

d. We note no errors of legal significance.

6. OPTIONS: AFI 36-3208, paragraph 5.56, provides that only 2 AF/CC may order a UOTHC Discharge. As the Special Court-Martial Authority in this case, you may:

- a. order retention;
- b. accept the waiver of an administrative board hearing and recommend to 2 AF/CC that an UOTHC Discharge be ordered; or
- c. reject the waiver of an administrative board hearing and order an administrative board hearing.

7. RECOMMENDATION: That you recommend to 2 AF/CC that Respondent receive an UOTHC Discharge.


Lt Col, USAF
Staff Judge Advocate

Attachment:
Case File

FD 2887-0231



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

28 January 1998

MEMORANDUM FOR AIC [REDACTED] FR [REDACTED] 314 TRS

FROM: 314 TRS/CC

SUBJECT: Notification Memorandum—Board Hearing

1. I am recommending your discharge from the United States Air Force for Conduct Prejudicial to Good Order and Discipline according to AFD 36-32 and AFI 36-3208, under the provisions of paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On 3 Dec 97, your enlisted EPR was referred because you were not recommended for promotion at that time.

b. In June 97, you obtained Privacy Act Information from the orderly room and used that information on at least three occasions to obtain phone services under false pretenses. For this misconduct, you received an Article 15 on 23 January 98.

c. On 25 Apr 97, you were disrespectful to a Senior Airman. For this misconduct, you received a Letter of Reprimand on 5 May 97.

d. In March 1997, you used a government phone for long distance personal calls. For this misconduct, you received an Article 15 on 16 May 97.

e. In Nov 96 and Jan 97, you used your government American Express Card to make unauthorized cash withdrawals. For this misconduct, you received a Letter of Reprimand on 7 Apr 97.

f. In Jul 96, you used your supervisor's government phone for a personal telephone conversation, for which you were verbally counseled on 3 Aug 96 and a Memorandum for Record was prepared.

g. From 15 to 17 Jul 96, you were absent without leave from your place of duty. For this misconduct, you received a Letter of Reprimand on 24 Jul 96.

PD 2002-0231

h. In June 96, you used government telephones to make personal long distance phone calls. For this misconduct, you were verbally counseled on 13 Jun 96 and a Memorandum for Record was prepared.

i. Your misconduct has caused significant degradation of mission effectiveness in the 314 Training Squadron and brings discredit upon you, your unit, and the United States Air Force.

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) Discharge. I am recommending that you receive an Under Other Than Honorable Conditions (UOTHC) Discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

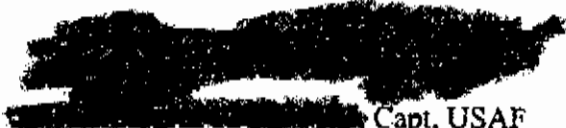
5. You have been scheduled for a medical examination. You must report to the Army Troop Medical Clinic at _____ hrs on _____.

6. Military legal counsel CAPT [REDACTED] has been obtained to assist you. An appointment has been scheduled for you to consult him on _____ at _____. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your ^{own} ~~own~~ behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

FD2002-0231

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 Unit Orderly Room.
9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.
10. The discharge board or the discharge authority will make the findings and recommendations required under 10 U.S.C. 2005(g).
11. Execute the attached acknowledgment and return it to me immediately.


Commander, Capt, USAF

Attachments:

1. Art 15, 28 Jan 98
2. EPR referral letter, 3 Dec 97
3. Art 15, 16 May 97
4. LOR with Attachment, 5 May 97
5. LOR, 7 Apr 97
6. MFR with Response, 3 Aug 96
7. LOR with Response, 24 Jul 96
8. MFR, 13 Jun 96
9. Airman's acknowledgment