

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
		X				
ISSUES A94.05		INDEX NUMBER A67.50, 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		CASE NUMBER FD2002-0253		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		
TO: SAF/MBR 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

FD02-0253

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 an injustice occurred because he was punished for his actions while in the military and then was punished again by not receiving the discharge that is fair and just. The record indicates the applicant received an Article 15 for being disrespectful in language and deportment toward a noncommissioned officer. In addition, he received three Letters of Reprimand for missing appointments (2), and being disrespectful to a noncommissioned officer; three Letters of Counseling for missing appointments (2), and being late for work; and a Memorandum for Record for failure to go. The DRB took note of the applicant's duty performance as documented by his performance and other information contained in the records. Although the member had failed his CDC course twice, which could result in a discharge, his misconduct was the basis for his General discharge. The Board concluded the discharge was appropriate for the reasons that were the basis for this case. No inequity or impropriety in his discharge was suggested or found in the course of the records review. His misconduct was a significant departure from conduct expected of all military members. The Board concluded that the character and reason for discharge were appropriate due to his misconduct.

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 A1C) (HGH A1C)

(MISSING DOCUMENTS)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/05/30 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 79/08/03. Enlmt Age: 18 11/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-54, E-50, G-55, M-28. PAFSC: 3P031 - Security Forces Apprentice. DAS: 00/08/10.

b. Prior Sv: (1) AFRes 98/07/06 - 98/09/09 (2 months 4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 98/09/10 for 6 yrs. Svd: 02 Yrs 08 Mo 21 Das, all AMS.

b. Grade Status: A1C - 98/10/24

c. Time Lost: None.

d. Art 15's: (1) 00/06/29, Moody AFB, GA - Article 91. You, on or about 21 Jun 00, were disrespectful in language and deportment toward TSgt -----, a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of his office, by holding your hand up and by saying to him, "Whatever," or words to that effect. Suspended reduction to Amn and 14 days restriction. (No appeal) (No mitigation)

e. Additional: LOR, 15 MAR 01 - Missed appointment.
LOC, 31 JAN 01 - Missed appointment.
MFR, 17 JAN 01 - Failure to go.
LOC, 26 OCT 00 - Late for work.
LOR, 25 NOV 99 - Missed appointment.
LOC, 20 OCT 99 - Missed appointment.
LOR, 05 AUG 99 - Disrespect to an NCO.

f. CM: None.

g. Record of SV: 98/09/10 - 00/04/15 Moody AFB 5 (HAF Dir)
00/04/16 - 01/04/02 Moody AFB 2 (Annual) REF

(Discharged from Moody AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (02) Yrs (10) Mos (25) Das
TAMS: (02) Yrs (08) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/06/09.
(Change Discharge to Honorable)

Issue 1: I request the following injustice to be corrected because I was punished for my action when I was in the military and then I was punished again by not receiving the discharge that is fair and just.

Issue 2: When I failed my Career Development Course(CDC), my commander offer (sic) me a chance to retrain. After looking over my options I dedced (sic) to get out of the Air Force. He then told me that higher commander wouldn't support giving me a Honorable discharge with my past record, he said if I wanted to get out I would have to take a general discharge. I accepted I was tolded (sic) that I may appeal this after six months of being out of the military. I sumit a copy of the letter my commander gave to me.

ATCH

1. Recommendation for Discharge, 347 SFS/CC, 3 May 01.
2. DD Form 149.

02/09/19/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 347TH RESCUE WING (ACC)
MOODY AIR FORCE BASE, GEORGIA

22 May 2001

MEMORANDUM FOR 347 WG/CC

FROM: 347 WG/JA

SUBJECT: Legal Review of AFPD 36-32 and AFI 36-3208 Discharge Action:
 A1C 347th Security Forces Squadron (347 SFS)

1. I have reviewed the subject discharge action and find it legally sufficient. Major [redacted] 347 SFS, has recommended that A1C [redacted] be involuntarily separated from the Air Force under honorable conditions (general) in accordance with AFPD 36-32 and AFI 36-3208, paragraph 5.50.2, for a pattern of misconduct (conduct prejudicial to good order and discipline). Major [redacted] does not recommend a program of probation and rehabilitation (P&R). I concur.

2. In reviewing this action, I find that there is a legally sufficient basis to separate A1C [redacted] from the Air Force with an under honorable conditions (general) discharge without P&R, as recommended.
 - a. Basis for discharge: AFI 36-3208, paragraph 5.50.2, states that airmen are subject to discharge for conduct prejudicial to good order and discipline, which is defined as conduct that tends to disrupt order, discipline, or morale within the military community. This category of conduct also includes that which causes dissent, disruption, and degradation of mission effectiveness, as well as conduct that tends to bring discredit on the Air Force in the view of the civilian community. A1C [redacted] misconduct includes six instances of failure to report to duty at the time prescribed, and twice he was disrespectful toward an NCO. In response to this misconduct, A1C [redacted] received three Letters of Reprimand (LOR), three Letters of Counseling (LOC), a warning by memorandum, and punishment pursuant to Article 15, UCMJ which were placed in his UIF.

 - b. Should A1C [redacted] be discharged? In determining whether A1C [redacted] should be discharged, you may consider the nature of the offenses and the circumstances surrounding them. You must then decide whether his conduct was indeed prejudicial to good order and discipline as defined above. In my view, A1C [redacted] misconduct has had deleterious effect on order and discipline within the wing. I believe the serious and

repetitive nature of A1C misconduct demonstrates an unwillingness to conform to Air Force standards. Consequently, A1C should be administratively discharged.

c. Service characterization: This notification discharge can be characterized as honorable or under honorable conditions (general).

(1). Honorable: AFI 36-3208, paragraph 1.18.1, states that an honorable discharge should be given when the airman's service has met Air Force standards of acceptable conduct and the member's service is so meritorious that any other characterization would be inappropriate. Due to the serious disciplinary actions taken, A1C record during this enlistment does not support an honorable discharge. Moreover, the General Court-Martial Convening Authority would have to approve such a characterization.

(2.) General: Paragraph 1.18.2 states that characterization of an airman's service as under honorable conditions (general) is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of his military record. A1C military record does not indicate exceptional service. On the contrary, the A1C misconduct outweighs the positive aspects of his record. Accordingly, an under honorable conditions (general) discharge is appropriate.

d. Probation and Rehabilitation: AFI 36-3208, paragraph 7.3, states that P&R may be offered to airmen who have demonstrated a potential to serve satisfactorily, have the capacity to be rehabilitated for continued military service or completion of the current enlistment, or whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. The squadron commander has recommended that P&R not be offered because the squadron has already attempted to rehabilitate A1C. I concur. A1C received an LOC for his first breach of discipline, but to no avail. It did not deter A1C from further misconduct as hoped. As a result, A1C received two more LOCs, three LORs, a warning by memorandum, and an Article 15 for his latest misconduct as well as the initiation of this administrative discharge. Thus, the willful and serious nature of A1C misconduct indicates that further attempts at rehabilitation would be unfruitful.

3. A1C Response: A1C has been in the Air Force for less than six years, and is therefore not entitled to a hearing before an administrative discharge board. On 7 May 01, A1C was informed that he was being considered for discharge and informed of his right to consult military counsel and submit statements on his own behalf. On 10 May 01, A1C submitted a statement. He asked that his discharge be characterized as honorable, however he admits that he has made some mistakes. His main objection is that he will lose the Montgomery GI Bill and this will hinder his educational goals.

4. A1C physical examination is not yet complete. However, AFI 36-3208 allows processing of involuntary discharge actions to continue up until actual separation. Any

approved discharge is then held in abeyance until the member is found medically qualified for worldwide duty.

5. As the Special Court-Martial Convening Authority, you have the following options:

- a. Retain the respondent;
- b. Recommend to the General Court-Martial Convening Authority (9 AF/CC) that the respondent be separated with an honorable discharge with or without the opportunity for P&R;
- c. Approve an under honorable conditions (general) discharge with or without the opportunity for P&R; or,
- d. Direct that the unit commander reinstate this action for processing IAW board hearing procedures if you believe that an under other than honorable conditions (UOTHC) discharge may be warranted.

6. I recommend that you direct A1C [redacted] be separated under honorable conditions (general) without P&R. I also recommend that you bar A1C [redacted] from Moody AFB for two years in light of the misconduct underpinning A1C [redacted] discharge.

[redacted]
Lt Col, USAF
Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 347TH WING (ACC)
MOODY AIR FORCE BASE, GEORGIA

FD2002-0253

7 May 2001

MEMORANDUM FOR A1C

347 SFS

FROM: 347 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for conduct prejudicial to good order and discipline (pattern of misconduct). The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. 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. On 4 Aug 99, you were disrespectful toward an NCO after being told to correct a discrepancy. For this offense you received an LOR, dated 5 Aug 99 (Atch 1a).
- b. On 20 Oct 99, you failed to go at the time prescribed to a dental appointment. For this offense you received an LOC, dated 20 Oct 99 (Atch 1b).
- c. On 23 Nov 99, you failed to go at the time prescribed to your scheduled M-16 firing appointment. For this offense you received an LOR, dated 25 Nov 99 (Atch 1c).
- d. On 21 Jun 00, you were disrespectful toward a NCO, who was your supervisor, by holding up your hand and saying to him "whatever." For this offense you received nonjudicial punishment, dated 7 Jul 00, which was used to establish your unfavorable information file (UIF) (Atch 1d).
- e. On 26 Aug 00, you failed to go at the time prescribed to your appointed place of duty. For this offense you received an LOC, dated 26 Oct 00 (Atch 1e).
- f. On 11 Jan 01, you failed to go at the time prescribed to your scheduled CWDT refresher course. For this offense you received a verbal counseling annotated in Memorandum for Record (MFR), dated 17 Jan 01 (Atch 1f).
- g. On or about 29 Jan 01, you failed to go at the time prescribed to your scheduled HAZMAT initial course. For this offense you received an LOC, dated 31 Jan 01 (Atch 1g).

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- h. On 13 Mar 01, you failed to go at the time prescribed to your appointed place of duty. For these offense you received a Letter of Reprimand (LOR), dated 15 Mar 01 (Atch 1h).

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 and will probably be precluded from enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.

3. 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 Capt _____ Area Defense Counsel, in Building 5107 Austin Ellipse, Moody AFB, GA, extension (DSN) 460-3421, on **8 May 2001 at 1030 hrs**. Please take your copy of this Notification Memorandum and attachments with you to your appointment. You may consult civilian counsel at your own expense.

4. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me within three duty days after receipt of this notification letter unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the Moody Air Force Base Hospital, Physical Exams, Building 3296, on **9 May 2001 at 0750 hrs** for the examination. **This is a mandatory appointment. Be sure to bring your medical records to this appointment.**

7. 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.

8. Execute the attached acknowledgment and return it to _____ immediately.

Major, USAF
Commander, 347th Security Forces Squadron

Attachments:

1. Supporting Documents, Reasons for Discharge
 - a. LOR, 5 Aug 99
 - b. LOC, 20 Oct 99
 - c. LOR, 25 Nov 99
 - d. Art 15/UIF, 7 Jul 00
 - e. LOC, 26 Oct 00
 - f. MFR, 17 Jan 01
 - g. LOC, 31 Jan 01
 - h. LOR, 15 Mar 01
2. Receipt of Notification Memorandum