






AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 	GRADE AB	AFSN/SSAN 
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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 A93.09	INDEX NUMBER A67.50	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
HEARING DATE 19 DEC 02	CASE NUMBER FD2002-0281	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 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



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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0281

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 contends his discharge was improper due to his alcoholism. The record shows that the applicant received two Article 15's for failure to go and for being drunk and disorderly. In addition, he also received three Letters of Reprimand and three Record's of Individual Counseling for drinking alcohol while on emergency standby, being late for work (twice), having an unprofessional relationship with another airman while still married, allowed another member to operate a vehicle while under the influence of alcohol, failure to follow directions and receiving a traffic ticket for illegal parking. 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

MEDICAL RECORDS MISSING

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

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/10/25 UP AFI 36-3208, para 5.50 (Misconduct - A Pattern of Misconduct). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/06/30. Enlmt Age: 18 11/12. Disch Age: 22 3/12. Educ: HS DIPL. AFQT: N/A. A-60, E-58, G-55, M-47. PAFSC: 3E251 - Pavements & Construction Equipment Journeyman. DAS: 99/01/18.

b. Prior Sv: (1) AFRes 98/06/02 - 98/07/28 (1 Mo 27 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 98/07/29 for 4 yrs. Svd: 3 Yrs 2 Mos 27 Das, all AMS.

b. Grade Status: AB - 01/08/02 (Article 15, 01/08/02)
AMN - 01/04/23 (Article 15, 01/04/23)
A1C - 99/11/29
AMN - Unknown

c. Time Lost: None

d. Art 15's: (1) 01/08/02, RAF Alconbury, UK - Article 134. You were on or about 20 Jul 01, drunk and disorderly, which conduct was of a nature to being discredit to the armed forces. Reduction to the grade of AB, forfeiture of \$482.00 pay per month for 1 month, restriction for 14 days, 14 days extra duty, and a reprimand. (No appeal) (No mitigation)

(2) 01/04/23, RAF Molesworth, UK - Article 86. You did, on or about 6 Apr 01, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to the grade of AMN, restriction for 14 days, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 22 MAR 01 - Drinking alcohol on emergency standby.
LOR, 31 JAN 01 - Late for work.
LOC, 29 Nov 01 - Late for work and unprofessional relationship.
LOR, 18 OCT 99 - Allowed another military member to operate a vehicle while under the influence of alcohol.

VERBAL COUNSELING, 13 SEP 99 - Traffic ticket for illegal
parking.
RIC, 5 MAY 99 - Failure to follow directions.

f. CM: None.

g. Record of SV: 98/07/29 - 00/03/28 RAF Molesworth 4 (Initial)
00/03/29 - 01/03/28 RAF Molesworth 3 (Annual)

(Discharged from Beale AFB)

h. Awards & Decs: AFTR, AFOUA (1OLC).

i. Stmt of Sv: TMS: (3) Yrs (4) Mos (24) Das
TAMS: (3) Yrs (2) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/02/12.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF

ATCH

1. Applicant's Issues.
2. Character Reference.

02/10/23/cr

June 22, 2002

To Whom It May Concern:

I believe that the discharge is improper because while I was in the service, all of my conduct problems were related to the disease I am battling now which is alcoholism. I am not trying to use my bout with alcoholism as an excuse for my off duty behavior, while I was in the service. However, I do feel this was a factor that was not looked at by my Commander at the time, nor were the positive things that I accomplished throughout my career. All of my off duty problems started when I moved into the dormitories following a divorce, as well as losing my son to boot. Such factors were not looked at or considered throughout the entire time I had been going through these life altering occurrences. They all piled up around the same time, and being in Europe without family support did not help the situation. I did serve over three years without problems and while at work, I always gave one hundred percent. I did not allow my personal problems interfere with my duties. At the time when all my problems were occurring, I chose not to think that alcohol was the problem. I received a three day class through the ADAPT Program. At the time, I was referred for being a passenger in a car in which the driver received a DUI for being slightly above the legal limit, and being involved in a collision with a British National. Also at that point, I had never been in trouble and it was a year prior to my separation with my wife. After I moved into the dormitories is when my off duty conduct began to take a toll on my career. I enjoyed my time in the service overall. I know that over the three plus years, I did put out more positive contributions than negative ones.

Since being discharged from the United States Air Force, I have been attending Alcoholics Anonymous meetings two or three times a week, In order to begin to deal with this problem and make a clean start for myself and my loved ones. I am currently working full time and have also been attending college full time maintaining a 3.3 grade point average. I have a four-year-old son to take care of so when I am not busy with these activities, I am also busy being a parent. I intend to transfer to the University of Delaware after this upcoming fall semester to get my bachelors degree in business, so that I may continue to be a productive member of society. These goals will be extremely hard to achieve without an Honorable Discharge from the United States Air Force. I know that my records show mainly the negative things that occurred throughout my career. However there are numerous positive things that I contributed continuously throughout my entire career, and I am proud to say, outweigh the negative ten fold. I have three Letters of Appreciation, as well as volunteering numerous community service hours to different groups throughout our Tri- base community, where I was stationed. I also took on many tasks and responsibilities that were usually given to those holding higher rank, due to personnel shortages. In closing, I would like to thank you for taking the time to hear my issues and explanations.

Sincerely,





DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 100TH AIR REFUELING WING (USAFE)

5 SEP 2001

MEMORANDUM FOR 100 ARW/CC

FROM: 423 ABS/JA

SUBJECT: Legal Review-Discharge Under AFI 36-3208, Chapter 5, Section H, Paragraph 5.50,
[REDACTED] USAFE

1. **HISTORY:** On 16 August 2001, [REDACTED] 423 ABS/CC, initiated discharge action against the respondent, [REDACTED], for a pattern of misconduct, IAW AFI 36-3208, Chapter 5, Section H, Paragraph 5.50. On 16 Aug 01, the respondent acknowledged receipt of the Notification Memorandum and provided written matters. [REDACTED] has recommended a general discharge (under honorable conditions). I concur with [REDACTED] recommendation.

2. **BASIS FOR ACTION:** The proposed action is based on the following misconduct:

- a. On or about 20 July 2001, the respondent was drunk and disorderly. For this misconduct, he was punished under Article 15, UCMJ, dated 2 August 01.
- b. On or about 6 April 2001, the respondent reported late for duty. For this misconduct, he was punished under Article 15, UCMJ, dated 23 April 2001.
- c. On 7 February 2001, the respondent failed to refrain from drinking alcohol while on emergency standby. For this misconduct, he received a Letter of Reprimand, dated 22 March 2001 and an Unfavorable Information File was established.
- d. On or about 31 January 2001, the respondent reported late for duty. For this misconduct, he received a Letter of Reprimand, dated 31 January 2001.
- e. On or about 29 November 2000, the respondent failed to go to his appointed place of duty. For this misconduct, he received a Letter of Counseling, dated 29 November 2000.
- f. On or about 8 October 1999, the respondent allowed another military member to operate a motor vehicle while he was under the influence of alcohol. For this misconduct, he received a Letter of Reprimand, dated 18 October 1999.

3. **EVIDENCE FOR THE RESPONDENT:** The Respondent is 22 years old. He enlisted in the Air Force on 29 July 1998, for 4 years. He was assigned to his current unit on 18 January 1999. His records indicate he is entitled to wear the AF Basic Training Ribbon. The

Respondent has two Enlisted Performance Reports on file, one with overall ratings of 4 and the latest one is a 3. In his 16 August 2001 response to the discharge notification memorandum, the Respondent requests that he be given an honorable discharge because he believes that anything less will have the collateral effect of denying him the ability to take advantage of his veterans benefits (MGIB) in order to obtain a college education. He asserts that his service has been faithful and that the positive aspects of his service outweigh the "few instances of minor misconduct" he committed.

4. ERRORS AND IRREGULARITIES:

a. Paragraph 5.49, "minor disciplinary infractions," and paragraph 5.50 "pattern of misconduct" are two similar bases for discharge under AFI 36-3208, Section H, for "Misconduct." Paragraph 5.49 typically involves a pattern of misconduct of a less serious nature that is often identified through reprimands and nonjudicial punishment. In contrast, a paragraph 5.50 "pattern of misconduct" is usually reserved for more serious patterns of misconduct, although it can also be demonstrated through the similar administrative documentation. In this case, the commander considered both of these paragraphs and he elected to cite paragraph 5.50 "pattern of misconduct" instead of paragraph 5.49 "minor disciplinary infractions" as the basis for discharge. The pattern of misconduct that is identified in this case is clearly one that is "prejudicial to good order and discipline" IAW paragraph 5.50.2. The majority of the respondent's misconduct is related his misuse and abuse of alcohol and it has tended to disrupt good order, discipline, and morale within the Tri-Base community. Moreover, the public nature of his misconduct (in Cambridge, at the base consolidated club, and at the installation's communications center) has also tended to bring discredit on the Air Force in the view of the civilian community. Therefore, despite the fact that paragraph 5.49 is the more commonly cited basis for misconduct discharges, in this case paragraph 5.50 more accurately describes the impact that the respondent's misconduct has had on the community.

b. The respondent's service information indicates that he holds the grade of E-2, however, this is inaccurate. The respondent should be correctly listed as an E-1. Following his first Article 15 in April 2001, he was reduced to the grade of E-2 without suspension. However, due to the continuing difficulties with the military personnel computer database system, this reduction in rank was not recognized in the system. The respondent was subsequently reduced in rank again to E-1/AB as a result of his most recent Article 15 on 2 Aug 01. The military pay records have been adjusted accordingly and the reporting discrepancy has been resolved.

5. CHARACTER OF SERVICE: This should be based on the quality of the member's service during the current enlistment. IAW AFI 36-3208, paragraph 1.18.1, an Honorable discharge should be awarded when "a member's service is otherwise so meritorious that any other characterization would be inappropriate." A general (under honorable conditions) discharge is appropriate if an airman's misconduct or poor performance outweighs positive aspects of the airman's military record. An under other than honorable conditions discharge

(UOTHC) is appropriate when the member's conduct is a significant departure from that which is expected of airmen. Here, simply put, the respondent's repeated misconduct had a direct and significant negative impact on both his unit and the community that outweighs the positive aspects of his service. To characterize the Respondent's service as "honorable" in the face of his disruptive misconduct would not be appropriate. Thus, in this case, a general discharge, under honorable conditions is warranted and in the best interest of the Air Force.

6. PROBATION AND REHABILITATION: The Separation Authority may approve separation but suspend the discharge pending probation and rehabilitation IAW AFI 36-3208, Chapter 7. Here, respondent does not ask to be retained; his response seems to concede that discharge is warranted. Instead, he requests to be separated with an honorable discharge as he is standing on the brink of what he perceives to be an uncertain future. As this is the first indication that the respondent has considered the impact of his misconduct as he stands at the brink of his military career, it is apparent that probation and rehabilitation is not warranted, nor is it recommended, in this case.

7. LEGAL SUFFICIENCY: This discharge package is legally sufficient to support separation of the respondent with a general discharge, without further probation and rehabilitation.

8. OPTIONS: As the separation authority, you have the following options in this case:

- a. Retain the respondent, or
- b. Approve separation and direct that the respondent be discharged with a general discharge, or
- c. Approve the separation but suspend it subject to probation and rehabilitation under AFI 36-3208, Chapter 7, or
- d. Return the discharge package to the unit and direct that a discharge board be convened to determine whether an under other than honorable conditions (UOTHC) discharge is appropriate, or
- e. Forward the case to 3 AF/CC for final action if you believe an honorable discharge is warranted.

8. RECOMMENDATION: Approve the separation of [REDACTED] with a general discharge (under honorable conditions), without probation and rehabilitation.

[REDACTED]
[REDACTED] USAF
Deputy Staff Judge Advocate

Attachments:

1. Proposed Separation Order for 100 MSS/DPMAR
2. Discharge Package, [REDACTED]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 100TH AIR REFUELING WING (USAFE)

16 August 2001

MEMORANDUM FOR [REDACTED]

FROM: 423 ABS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50. If my recommendation is approved, your service will be characterized as either honorable or general, under honorable conditions. I am recommending that your service be characterized as general, under honorable conditions.
2. My reasons for this action is based on the following information:
 - a. On or about 20 July 2001, you were drunk and disorderly. For this misconduct, you were punished under Article 15, UCMJ, dated 2 August (Attachment 1).
 - b. On or about 6 April 2001, you reported late for duty. For this misconduct, you were punished under Article 15, UCMJ, dated 23 April 2001 (Attachment 2).
 - c. On 7 February 2001, you failed to refrain from drinking alcohol while on emergency standby. For this misconduct, you received a Letter of Reprimand, dated 22 March 2001 and an Unfavorable Information File was established (Attachment 3).
 - d. On or about 31 January 2001, you reported late for duty. For this misconduct, you received a Letter of Reprimand, dated 31 January 2001 (Attachment 4).
 - e. On or about 29 November 2000, you failed to go to your appointed place of duty. For this misconduct, you received a Letter of Counseling, dated 29 November 2000 (Attachment 5).
 - f. On or about 8 October 1999, you allowed another military member to operate a motor vehicle while he was under the influence of alcohol. For this misconduct, you received a Letter of Reprimand, dated 18 October 1999 (Attachment 6).
3. Other derogatory Information:
 - a. On or about 5 May 1999, you failed to follow directions. For this misconduct, you received a Record of Counseling, dated 5 May 1999 (Attachment 7).

- b. On or about 4 June 1999, you received an Armed Forces traffic violation ticket. For this misconduct, you received a verbal counseling on 13 September 1999 (Attachment 8).
4. 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.
5. 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 [REDACTED], the Area Defense Counsel, RAF Lakenheath, Suffolk, DSN: 226-3608, at 1030hrs, on 17 August 2001. Or you may consult civilian counsel at your own expense.
6. You have the right to submit matters on your own behalf. Any statements you want the separation authority to consider must reach me, through the First Sergeant, by COB 22 August 2001, unless you receive an extension for good cause shown. I will send whatever you submit to the separation authority.
7. If you fail to consult counsel or to submit statements in your own behalf in the time prescribed above, your failure will constitute a waiver of your right to do so.
8. You have been scheduled for a medical examination. You must report to RAF Upwood, Primary Care Section, on 17 August 01 at 1415 hours for the examination.
9. 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 423 ABS Orderly Room.

[REDACTED]
Commander

[REDACTED], USAF

Attachments:

1. Article 15, dated 2 Aug 2001
2. Article 15, dated 23 Apr 2001
3. Letter of Reprimand, dated 22 Mar 2001
4. Letter of Reprimand, dated 31 Jan 2001
5. Record of Individual Counseling, dated 29 Nov 2000
6. Letter of Reprimand, 18 Oct 1999
7. Record of Individual Counseling, dated 5 May 1999
8. Traffic Ticket, dated 4 Jun 1999
9. EPR(s)
10. Statement of Understanding Regarding Recoupment of Education Assistance, Special Pay, or Bonuses
11. Receipt of Notification Memorandum