

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
<b>[REDACTED]</b>					<b>X</b>
<b>[REDACTED]</b>					<b>X</b>
<b>[REDACTED]</b>					<b>X</b>
<b>[REDACTED]</b>					<b>X</b>
<b>[REDACTED]</b>					<b>X</b>

ISSUES <b>A92.35; A92.21</b>	INDEX NUMBER <b>A67.90</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center; padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; text-align: center; padding: 5px;"><b>1</b></td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><b>2</b></td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><b>3</b></td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><b>4</b></td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </tbody> </table>	EXHIBITS SUBMITTED TO THE BOARD		<b>1</b>	ORDER APPOINTING THE BOARD	<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE	<b>3</b>	LETTER OF NOTIFICATION	<b>4</b>	BRIEF OF PERSONNEL FILE		COUNSEL'S RELEASE TO THE BOARD		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE		TAPE RECORDING OF PERSONAL APPEARANCE HEARING
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HEARING DATE <b>22 Nov 02</b>	CASE NUMBER <b>FD2002-0302</b>																	

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 with/without counsel, and the right to submit an application to the AFBCMR.**

SIGNATURE OF RECORDER <b>[REDACTED]</b>	SIGNATURE OF BOARD PRESIDENT <b>[REDACTED]</b>
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INDORSEMENT	DATE: <b>22 Nov 02</b>
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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 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD2002-0302

**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 the 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 1. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case.

ISSUE 2 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

**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, 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 AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/07/28 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 75/10/14. Enlmt Age: 17 10/12. Disch Age: 23 9/12. Educ: HS DIPL. AFQT: N/A. A-60, E-88, G-88, M-91. PAFSC: 3C052 - Communication Computer System Program Journeyman. DAS: 97/08/14.

b. Prior Sv: (1) AFRes 93/09/08 - 93/11/14 (2 Mos 7 Days) (Inactive).

(2) Enld as AB 93/11/15 for 4 yrs. Ext: 1 Yr 11 Mos. Svd: 3 Yrs 10 Mos 18 Das, all AMS. AMN - 94/05/15. A1C - 95/03/15. SRA - (EPR Indicates: 96/07/15-97/02/28). EPRs: 5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenld as SRA 97/10/03 for 4 yrs. Svd: 1 Yr 9 Mos 26 Das, all AMS.

b. Grade Status: AMN - 99/04/08 (Vacation of Article 15, 99/07/12)

c. Time Lost: None.

d. Art 15's: (1) 99/07/12, Vacation, Peterson AFB, CO - Article 86. You, did, on or about 10 Jun 99, without authority, fail to go at the time prescribed to your place of duty, to wit: mandatory weigh in appointment. Reduction to the grade of AMN. (No appeal) (No mitigation)

(2) 99/04/09, Peterson AFB, CO - Article 92. You, who knew or should have known of your duties, from on or about 14 Dec 98 to on or about 17 Mar 99, on divers occasions, were derelict in the performance of those duties in that you willfully failed to refrain from using your government Visa for personal use. Article 134. You, being indebted to ----- in the sum of \$327.91 for unauthorized government Visa transactions, which amount became due and payable on or about 30 Jan 99, did, from on or about 30 Jan 99 to on or about 4 Mar 99, dishonorably fail to pay said debt. Suspended reduction to the grade of AMN, and 30 days correctional custody. (No appeal) (No mitigation)

(3) 98/07/16, Peterson AFB, CO - Article 134. You, did, on or about 21 May 98, willfully and unlawfully alter a public record, to wit: Air Force Form 899, Request and Authorization for Permanent Change of Station - Military. Suspended reduction to the grade of AMN, and suspended forfeiture of \$463.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 97/03/01 - 98/03/20 Peterson AFB 5 (Annual)  
98/03/21 - 99/03/20 Peterson AFB 3 (Annual) REF

(Discharged from Peterson AFB)

h. Awards & Decs: AFAM, AFCM, AFLSA, AFTR, NDSM, SAEMR W/DEV, AFOEA, AFGCM.

i. Stmt of Sv: TMS: (5) Yrs (10) Mos (21) Das  
TAMS: (5) Yrs (8) Mos (14) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/02.  
(Change Discharge to Honorable)

Issue: My discharge was inequitable because it was based on a short period of time during my six years of otherwise faithful and honorable service. An explanation of this time period and supporting documentation regarding time in service are covered in the attachments listed above in 7a, 7b, and 7c.

**ATCH**

1. Applicant's Memo to the Board.
2. Evaluation and Performance Feedback.
3. Copies of Award and Letters of Appreciation.

02/10/23/cr

FD 2002-0302



DEPARTMENT OF THE AIR FORCE

21ST SPACE WING (AFSPC)

23 Jul 99

MEMORANDUM FOR 21 SW/CC [REDACTED]

FROM: 21 SW/JA

SUBJECT: Legal Review, Administrative Discharge Action - [REDACTED]

1. **SUMMARY:** On 15 July 1999, [REDACTED], Det 11/CC, initiated an involuntary discharge action against [REDACTED] for a Pattern of Misconduct (Conduct Prejudicial to Good Order and Discipline), under the provisions of AFI 36-3208, paragraph 5.50.2. He recommends an Under Honorable Conditions (General) discharge. [REDACTED] is not entitled to a discharge board, but he has submitted matters for your consideration and has requested that you separate him with an Honorable discharge. I have reviewed the case file and find it legally sufficient. I recommend that you sign the proposed memorandum at Tab 1, separating [REDACTED] from the United States Air Force with a General discharge, without probation and rehabilitation.

2. **BASIS FOR ACTION:** The basis for this action involves the following facts:

a. On or about 10 Jun 99, [REDACTED] failed to go to his mandatory weigh-in appointment in Building 2025. For this misconduct, his suspended Nonjudicial Punishment under Article 15, UCMJ, dated 9 Apr 99, was vacated on 12 Jul 99. Punishment consisted of reduction to the grade of Airman, with a new date of rank of 8 Apr 99. (Tab 3)

b. Between on or about 14 Dec 98 and on or about 17 Mar 99, at or near Colorado Springs, Colorado, [REDACTED] used his government Visa Card for personal use on multiple occasions. For this misconduct, [REDACTED] received an Article 15, dated 9 Apr 99. Punishment consisted of reduction to the grade of Airman, suspended until 8 Oct 99, and 30 days correctional custody. (Tab 3)

c. From on or about 30 Jan 99 to on or about 4 Mar 99, [REDACTED] dishonorably failed to pay \$327.91 to Nations Bank for unauthorized government Visa Card transactions. For this misconduct, [REDACTED] received the punishment mentioned above in Paragraph 2(b). (Tab 3)

d. On or about 21 May 98, at or near Colorado Springs, Colorado, [REDACTED] willfully and unlawfully altered a public record, to wit: Air Force Form 899, Request and Authorization for Permanent Change of Station - Military. For this misconduct, [REDACTED] received an Article 15, dated 16 Jul 98. Punishment consisted of reduction to the grade of Airman Basic, suspended until 15 Jan 99, forfeiture of \$463.00 pay per month for two months, suspended until 15 Jan 99, and the establishment of an Unfavorable Information File, dated

18 Aug 98. (Tab 3)

3. **PERSONAL DATA:** [REDACTED] is 23 years old. He has five years and eight months of active duty service with a TAFMSD of 15 Nov 93. He has five enlisted performance reports with the following overall ratings and closeout dates: 20 Mar 99 - 3; 20 Mar 98 - 5; 28 Feb 97 - 5; 14 Jul 96 - 5; 14 Jul 95 - 5. He is entitled to wear the Air Force Commendation Medal, the Air Force Achievement Medal, the Air Force Excellence Award, the Air Force Good Conduct Medal, the National Defense Service Medal, the Air Force Longevity Service Award, the Small Arms Expert Marksmanship Ribbon, and the Air Force Training Ribbon.

4. **SUMMARY OF MATTERS SUBMITTED BY** [REDACTED] agrees that he should not be part of the Air Force anymore but requests that you separate him with an Honorable discharge. He admits that missing his mandatory weigh-in was an oversight on his part and states that he made several attempts to correct the situation. He also explains that his two Article 15s were caused by family and financial problems, including having his oldest daughter taken away from him by the Department of Social Services right before his wedding. He claims that his duty performance has met and exceeded Air Force standards and believes that the "couple of mistakes" he made are outweighed by "six years of faithful and honorable service." He requests an Honorable discharge so that he can have "options for a decent employment opportunity" and so that he can take care of his wife and two daughters. He also has submitted six performance feedback worksheets, four EPRs, nineteen letters of appreciation, and four certificates for your consideration. (Tab 4)

5. **DISCUSSION:**

a. **SEPARATION AUTHORITY:** IAW AFI 36-3208, paragraph 5.56.1.1, you are the Separation Authority for notification discharges based on Misconduct that result in a General discharge. 14 AF/CC is the separation authority for discharges based on Misconduct that result in an Honorable discharge. AFI 36-3208, para 5.56.2.1.

b. **IS DISCHARGE APPROPRIATE?** Yes. IAW AFI 36-3208, para 5.50.2, airmen may be discharged for a Pattern of Misconduct that includes conduct that tends to disrupt order, discipline, or morale within the military community (and usually involves causing dissent, disruption, and degradation of mission effectiveness) or conduct that tends to bring discredit on the Air Force in the view of the civilian community. In light of [REDACTED] multiple acts of misconduct and the rehabilitative actions taken to correct his behavior (outlined above), administrative separation is warranted.

c. **CHARACTERIZATION:** [REDACTED] has reviewed [REDACTED] service record, including the matters that [REDACTED] has submitted for your consideration, and recommends that [REDACTED] receive a General discharge. Under AFI 36-3208, para 1.18.2, if an airman's service has been honest and faithful, a General service characterization is warranted whenever significant negative aspects of the airman's conduct or duty performance outweigh the positive aspects of the airman's military record. [REDACTED] misconduct has significantly marred his military record, thus making a General discharge appropriate. [REDACTED], however, requests

that you characterize his service as Honorable. AFI 36-3208, para 5.48.4, states that a member separated for Misconduct may receive an Honorable discharge only if the member's record has been so meritorious that any other characterization would be clearly inappropriate. In light of [REDACTED] misconduct, his record arguably has not been "meritorious," and it certainly has not been so meritorious that any other characterization would be clearly inappropriate; to the contrary, as discussed above, a General discharge is appropriate in this case.

d. **PROBATION AND REHABILITATION (P&R):** [REDACTED] is eligible for P&R under AFI 36-3208, Chapter 7. However, AFI 36-3208, para 7.2.7, states that P&R should be offered only in cases where "there seems to be a reasonable expectation of rehabilitation." In this case, [REDACTED] unit tried to rehabilitate him by giving him two Article 15s, but [REDACTED] nonetheless continues to act in ways unacceptable for an airman in the United States Air Force. He has not demonstrated a capacity to be rehabilitated, and his retention would be inconsistent with maintaining good order and discipline. Therefore, as recommended by [REDACTED] discharge should not be suspended for a period of P&R.

6. **IRREGULARITIES:** When [REDACTED] suspended Article 15 punishment from 9 Apr 99 was vacated on 12 Jul 99, [REDACTED] was erroneously given a new date of rank of 8 Apr 99, instead of 9 Apr 99. However, this error benefited [REDACTED] and does not affect the legal sufficiency of his discharge in any way.

7. **OPTIONS:** You have the following options:

- a. Direct that [REDACTED] be retained;
- b. Recommend to 14 AF/CC that [REDACTED] be separated with an Honorable discharge, with or without P&R;
- c. Direct that [REDACTED] be separated with an Under Honorable Conditions (General) discharge, with or without P&R;
- d. Direct that this case be reinitiated and processed as a board hearing discharge, if you believe that an Under Other Than Honorable Conditions (UOTHC) discharge is appropriate.

8. **RECOMMENDATION:** Approve [REDACTED] recommendation to separate [REDACTED] with a General discharge, without probation and rehabilitation, by signing the proposed memorandum at Tab 1.

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



## DEPARTMENT OF THE AIR FORCE

21ST SPACE WING (AFSPC)

15 JUL 1999

MEMORANDUM FOR [REDACTED]

FROM: DET 11/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Pattern of Misconduct (Conduct Prejudicial to Good Order and Discipline). The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as either Honorable or Under Honorable Conditions (General). I am recommending that your service be characterized as General.

2. My reasons for this action are that:


a. You did, on or about 10 Jun 99, without authority, fail to go to your mandatory weigh-in appointment in Building 2025. For this misconduct, your suspended Nonjudicial Punishment under Article 15, UCMJ, dated 9 Apr 99, was vacated on 12 Jul 99. Punishment consisted of reduction to the grade of Airman, with a new date of rank of 8 Apr 99. (Atch 1)

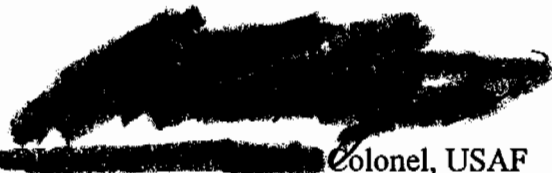
b. You, who knew or should have known of your duties at or near Colorado Springs, Colorado, between on or about 14 Dec 98 and on or about 17 Mar 99, on divers occasions, were derelict in the performance of those duties in that you willfully failed to refrain from using your government Visa Card for personal use. For this misconduct, you received an Article 15, dated 9 Apr 99. Punishment consisted of reduction to the grade of Airman, suspended until 8 Oct 99, and 30 days correctional custody. (Atch 2)

c. You, being indebted to Nations Bank in the sum of \$327.91 for unauthorized government Visa Card transactions, which amount became due and payable on or about 30 Jan 99, did, at or near Colorado Springs, Colorado, from on or about 30 Jan 99 to on or about 4 Mar 99, dishonorably fail to pay said debt. For this misconduct, you received the punishment mentioned above in Paragraph 2(b). (Atch 2)

d. You did, at or near Colorado Springs, Colorado, on or about 21 May 98, willfully and unlawfully alter a public record, to wit: Air Force Form 899, Request and Authorization for Permanent Change of Station - Military. For this misconduct, you received an Article 15, dated 16 Jul 98. Punishment consisted of reduction to the grade of Airman Basic, suspended until 15 Jan 99, forfeiture of \$463.00 pay per month for two months, suspended until 15 Jan 99, and the establishment of an Unfavorable Information File, dated 18 Aug 98. (Atch 3)



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 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.
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 , the Area Defense Counsel, on 15 JUL 99 at 1000 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 NLT 1600 hours on 20 JULY 1999 (3 workdays) unless you request and receive an extension from me 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 Peterson Air Force Base Clinic, at 1300 hours on 12 JULY 1999 for the examination.
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.



Colonel, USAF  
Commander

Attachments:

1. AF Form 366, dated 12 Jul 99
2. Article 15, dated 9 Apr 99 w/Atchs
3. Article 15, dated 16 Jul 98/UIF, dated 18 Aug 98
4. Member's Receipt of Notification Memorandum