






AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)  | GRADE AIC | AFSN/SSAN  |
|--|---------------------|--|

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|--------------------|--|--|
| TYPE GEN | <input checked="" type="checkbox"/> PERSONAL APPEARANCE | RECORD REVIEW |
| COUNSEL | NAME OF COUNSEL AND OR ORGANIZATION | ADDRESS AND OR ORGANIZATION OF COUNSEL |
| YES | NO | |
| | <input checked="" type="checkbox"/> | |

| MEMBERS SITTING | VOTE OF THE BOARD | | | | |
|---|-------------------|-----|-------|-------|------|
| | HON | GEN | LOTHC | OTHER | DENY |
|  | X**+ | | | | |
|  | X**+ | | | | |
|  | X**+ | | | | |
|  | X**+ | | | | |
|  | X**+ | | | | |

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|----------------------------------|----------------------------------|--|
| ISSUES A93.02 | INDEX NUMBER A67.50 | EXHIBITS SUBMITTED TO THE BOARD |
| | | 1 ORDER APPOINTING THE BOARD |
| | | 2 APPLICATION FOR REVIEW OF DISCHARGE |
| | | 3 LETTER OF NOTIFICATION |
| | | 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 |
| HEARING DATE 03 Feb 03 | CASE NUMBER FD01-00125 | |

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.


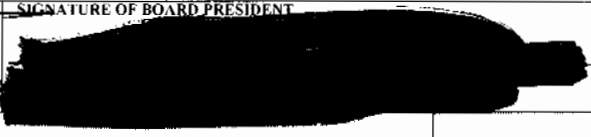
REMARKS

Case heard at Travis AFB, CA

Change Reason Authority for Discharge - *

Change RE Code - +

Advise applicant of the decision of the Board.

| | |
|--|--|
| SIGNATURE OF RECORDING OFFICER  | SIGNATURE OF BOARD PRESIDENT  |
| INDORSEMENT | DATE: 3 Feb 03 |

| | |
|---|--|
| TO: SAI/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

CASE NUMBER

FD-01-00125

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

The applicant appeared and testified before the Discharge Review Board without counsel at Travis AFB, California, on February 3, 2003. The following witness also testified on the applicant's behalf – LCF (the applicant's fiancée).

The following additional exhibits were submitted at the hearing: Exhibit #6: Character Letter From TCSE, dtd 30 Jan 03; Exhibit #7: Job Performance Evaluation, dtd 18 Nov 02

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants the requested relief - the discharge is upgraded to Honorable and there will be a change of the reason and authority for the discharge and a change of reenlistment code.

ISSUES: Applicant received a general discharge after being convicted of a crime in civilian court. Applicant contends his discharge was inequitable because it was based on one isolated incident of misconduct and was based on his request to be discharged. He states that his misconduct was out of character, that he has never done anything like that before or after the incident, and that he made restitution immediately upon discovery of his conduct by police. With his outstanding duty performance and the absence of any other disciplinary action in his record, he believes he would not have been discharged had he not requested separation.

CONCLUSIONS: The Discharge Review Board acknowledged 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. However, given the utter lack of disciplinary action, his record of outstanding service, the minor and limited nature of the misconduct, and the applicant's accountability and his repentant behavior after revelation of his misconduct, the Board finds that the general service characterization was inequitable and that the discharge would in fact not have occurred but for his ill-considered and guilt ridden request for separation.

In view of the foregoing findings the board concludes that there does exist an equitable basis for upgrade of discharge, thus the applicant's discharge should be changed.

Therefore, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge, that the reason for the discharge is more accurately described as Secretarial Authority, and that the reenlistment code should be changed to 3K.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]

(Former A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/08/10 UP AFI 36-3208, para 5.51.1 (Misconduct - Civilian Conviction). Appeals for HON Disch.

2. **BACKGROUND:**

a. DOB: 78/09/15. Enlmt Age: 18 4/12. Disch Age: 20 10/12. Educ:HS DIPL. AFQT: N/A. A-79, E-43, G-42, M-16. PAFSC: 2S051 - Supply Management Journeyman. DAS: 97/12/13.

b. Prior Sv: AFRes 97/02/10 - 97/08/12 (6 months 3 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 97/08/13 for 4 yrs. Svd: 1 Yrs 11 Mo 28 Das, all AMS.

b. Grade Status: A1C - 98/12/13
AMN - 98/02/13

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: none.

g. Record of SV: 97/08/13 99/04/12 Offutt AFB 5 (Initial)
(Discharged from Offutt AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (6) Mos (1) Das
TAMS: (1) Yrs (11) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/03/28.
(Change Discharge to Honorable)

Issue 1: My service prior to my discharge was excellent. I was up for an Achievement Award. I also had received a Sharp Award, and I also was selected from my Supplies Commander to be placed on a inventory team. On August 10th I was released with a General Discharge (under honorable conditions) for a Misconduct. I was placing numerous phone calls on two credit cards that I memorized while working at the ----- Gas Station in Bellevue Nembraska (sic). Once caught and arrested I took responsibility. I kept the Air Force help to a minimum for it was a mistake. The Air Force didn't press any

charges for the whole matter was taken care of in civil court.

I managed to pay all fines and debts in one month. I received a Misdemeanor for my actions and asked to be released for fear of any other charges that may occur be court martial from the Air Force. Once released from Active Duty, I've managed to obtain three jobs in three months each one holding more responsibility and more pay. I now work for the ----- were (sic) I managed a Hunger Program that helps low income families and homeless individuals. I've held this job for 18 months and I've received many praise reports and Employee of the Month Awards. Since my discharge, I can say that I have learned my lesson and regret what I did, knowing that I had the funds to place those calls. I havent (sic) had any troubles with the law since my release. If my Discharge is overturn (sic), I would really like to return to the Air Force by joining the Air Guard and prove to myself, to my country, and to my family.

ATCH

1. DD Form 214.
2. Three Letters of Support.
3. VA Cover Letter.

01/05/02/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

0 5 AUG 1999

MEMORANDUM FOR 55 WG/CC

FROM: 55 WG/JA

SUBJECT: Legal Review: Administrative Discharge Action-
██████████ 55 SUPS (ACC)

1. **INITIATION OF ACTION:** On 30 July 1999, 55 SUPS/CC notified ██████████ he was recommending his discharge for Misconduct—Civilian Conviction pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.51.1. On 3 August 1999 55 SUPS/CC further recommended ██████████ receive a general discharge without probation and rehabilitation (P&R).
2. **RESPONDENT:** The respondent is a twenty year old Customer Service Journeyman. He has completed one year and eleven months of his current four year enlistment (TAFMSD: 13 August 1997) and was assigned to his unit on 13 December 1997. This is his first enlistment.
3. **REASONS FOR DISCHARGE:** On 15 July 1999, the respondent was found guilty in the County Court of Sarpy County, Nebraska, on two counts of unauthorized use of a financial transaction device, a violation of Section 28-620, R.R.S. Nebraska, which is a Class I Misdemeanor.
4. **RESPONDENT'S SUBMISSION:** By letter dated 2 August 1999, the respondent indicated he had consulted with counsel and waived his rights to submit statements on his own behalf.
5. **ERRORS AND IRREGULARITIES:** None.
6. **DISCUSSION:**
 - a. **Basis for Discharge:** Under AFI 36-3208, paragraph 5.51.1, airmen are subject to discharge based on conviction by civilian authorities when a punitive discharge would be authorized for the same or a closely related offense under the MCM or when the sentence by civilian authorities includes confinement for 6 months or more. ██████████ was convicted on two counts of unauthorized use of a financial transaction device. The analogous MCM offense is violation of Article 134 – Obtaining services under false pretenses. A punitive discharge is authorized for this offense. Therefore, the civilian conviction provides sufficient basis for discharge.

b. **Appropriateness of Discharge:** [REDACTED] committed his offenses while engaged in off-duty employment at an off-base convenience store. Taking advantage of his access to customer's credit card numbers, he used these numbers to pay for long distance telephone calls. His actions have seriously eroded his trustworthiness and call into question his ability to ever occupy a position of trust in the Air Force. His lack of integrity has brought discredit upon every service member stationed at Offutt AFB. Discharge is appropriate.

c. **Characterization of Service:** Table 1.3 to AFI 36-3208 provides that discharges for Misconduct—Civilian Conviction may be characterized as honorable, general, or under other than honorable conditions. A general discharge is appropriate when significant negative aspects of an airman's conduct or duty performance outweigh positive aspects of the airman's military record. Since that is the case here, a general discharge is appropriate.

d. **Probation & Rehabilitation:** The respondent is eligible for P&R under AFI 36-3208, Chapter 7. The initiating commander does not recommend P&R. Given the respondent's actions, it appears that he can not or will not adhere to Air Force standards of conduct. An additional opportunity for rehabilitation through P&R is not warranted.

e. **Legal Sufficiency:** This action is legally sufficient.

7. **OPTIONS:** As the special court-martial convening authority, you may:

- a. Retain the respondent;
- b. Approve discharge with a general discharge with, or without, P&R;
- c. Return the file to the unit with a recommendation that the respondent be processed for discharge with an under other than honorable conditions discharge; or
- d. Forward the file to the general court-martial convening authority with a recommendation for an honorable discharge with, or without, P&R.

8. **RECOMMENDATION:** I recommend that the respondent be discharged with a general discharge without P&R and, due to the nature of his discharge, he be barred from Offutt Air Force Base for a period of one year from the date of his discharge.

[REDACTED]



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

30 July 99

MEMORANDUM FOR AIC [REDACTED]

FROM: 55 SUPS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Misconduct--Civilian Conviction. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.51.1. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending a general discharge.
2. My reason for this action is: On 15 July 1999, you were found guilty in the County Court of Sarpy County, Nebraska, on two counts of unauthorized use of a financial transaction device, a violation of Section 28-620, R.R.S. Nebraska, which is a Class I Misdemeanor.
(Atch 1-1)
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. If you are discharged, you will be ineligible for reenlistment in the Air Force and probably any other branch of the military.
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 [REDACTED] Area Defense Counsel, Bldg 323C, RM 302, Phone 4-3939, at 0900 hrs on 2 Aug 99. You may consult civilian counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 1000 hrs / 4 Aug 99 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 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 55th Medical Group, Physical Exams, Room 115, Building 527, at 1300 hrs on 2 Aug 99 for the examination. Please pick up your medical records 24 hrs prior to your appointment.

8. You have been scheduled for an initial separation appointment. You must report to the 55th Mission Support Squadron, Separations and Retirements Section, Room 235, Bldg 323C, at 1000 hrs on 2 Aug 99 with your escort.
9. You have been scheduled for a pre-separation briefing. You must report to the Family Support Center at 1300 hrs on 3 Aug 99 for the briefing.
10. 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.
11. Execute the acknowledgment provided and return it to me immediately.



Attachments:

Atch 1-1; Civilian Conviction, 15 July 1999