

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

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

TYPE	<b>X PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

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

ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD			
A01.47, A93.11, A93.09	A67.90	1	ORDER APPOINTING THE BOARD		
		2	APPLICATION FOR REVIEW OF DISCHARGE		
		3	LETTER OF NOTIFICATION		
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE		
4 JUN 03	FD01-00282-A		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 Scott AFB, Illinois.

Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.

Change Reason and Authority - \*

INDORSEMENT		DATE: 10 JUN 03
TO:	FROM:	
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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	

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD01-00282-A

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable and for a change in the Reason and Authority for the discharge and the RE Code.

The applicant's case was considered by the Discharge Review Board (DRB) at Scott AFB IL, on June 4, 2003. The applicant appeared before the DRB but did not have counsel.

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

**FINDINGS:** The request for relief is denied.

The DRB finds that neither the evidence of record nor that provided by the applicant sufficiently substantiates an inequity or impropriety that would justify upgrade of the discharge.

**ISSUES:** The applicant was discharged with a General discharge for misconduct or, more specifically, conduct prejudicial to good order and discipline. The applicant received three Article 15s during the last two and a half years of her career, though only two fell within her last period of enlistment. Her first Article 15, for failure to obey an order, related to her decision to drive on base after the support group commander had given her an order not to. She received a second Article 15 a year later (and after her reenlistment) for dereliction of duty for operating her vehicle while her license was suspended. 4 months later she received a vacation action (the administrative equivalent of an Article 15 action) for making a false official statement connected with her scheme to steal clothing from her off-duty employer, a department store. In her submission to the DRB, the applicant states her belief that she was not given sufficient opportunity to overcome her "financial situation"

The DRB concluded that the characterization of the applicant's discharge was appropriate given the nature of the applicant's misconduct. The DRB was generally impressed with the applicant's activities since her separation from the Air Force. Her effort to overcome her discharge and other troublesome issues in her life is noteworthy. As for the facts of her case, the applicant did not contest the incidents for which she was disciplined. Indeed, she offered explanations for her misconduct that were, to an extent, mitigating. Nevertheless, two aspects of her case troubled the DRB. First, it was difficult for the DRB to accept certain aspects of the applicant's testimony. For example, the applicant's problems with the erroneous suspension of her license had nothing to do with the reasons behind the punishment for her failure to obey the order. The gravamen of her offense was her intentional failure to obey an order – an order given by the commander in good faith. While the basis for the order may have turned out to be false (a proposition some members of the DRB were hesitant to accept), the fact remains that the applicant chose to violate the order. A further example is illustrative. The applicant's explanation for her "accomplice's" change of heart regarding the theft of clothes seemed dubious. The connection between the party and the "accomplice's" decision to tell the authorities about the theft was tenuous. Moreover, this explanation was actually not relevant to the applicant's decision to steal the clothes or her decision to lie to Air Force authorities. This leads to the second aspect of the applicant's case that troubled the DRB. In addition to the misconduct for which the applicant was disciplined, the applicant stole merchandise from her employer. In addition, if the applicant's claim regarding her accomplice is to be believed, she was also guilty of solicitation by convincing the other woman to assist her with the theft of the clothes. Even though these crimes were not charged, they nevertheless occurred. The applicant was fortunate the Air Force and civilian authorities chose not to pursue the matter, but their failure to do so does not preclude the DRB's consideration of this information. The DRB cannot use the information to lower the characterization of the discharge or change the reason for the discharge to something more severe. But, the DRB can appropriately consider that conduct on the issue of the quality of the applicant's service and on the appropriateness of the commands'

decision to discharge the applicant. Given all the misconduct in which the applicant engaged, the DRB concluded that the command's response to the applicant's misconduct was appropriate and equitable. The DRB found no merit to the applicant's contention that she was not given an appropriate opportunity to overcome her financial problems. The applicant's difficulties ran much deeper than mere financial problems.

**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation, was within the discretion of the discharge authority, and that the applicant was provided full administrative due process. Having found no inequity or impropriety, the request for relief is denied.

Attachment:  
Examiner's Brief

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

FD01-00282-A

(Former SSGT) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a Gen Dish fr USAF 98/05/08 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for HON Disch.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 00/08/03.

b. The AFDRB reviewed case on 01/02/23 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 01/04/16. (Change Discharge to Honorable)

NO ISSUES SUBMITTED.

Atch

None.

01/08/05/ia

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

(Former SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 98/05/08 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 66/01/29. Enlmt Age: 18 2/12. Disch Age: 32 3/12. Educ: HS DIPL. AFQT: N/A. A-79, E-36, G-41, M-22. PAFSC: 3S071 - Personnel Craftsman. DAS: 97/10/17.

b. Prior Sv: (1) AFRes 84/04/10 - 84/12/11 (8 months 2 days) (Inactive).

(2) Enld as AB 84/12/12 for 4 yrs. Ext 87/09/09 for 11 mos. Reenld as Sgt 88/10/14 for 4 yrs. Ext 89/09/08 for 20 mos. Ext 93/07/22 for 7 mos. Ext 94/06/13 for 4 mos. SVD: 12 years 7 months 12 days, all AMS. AMN-(APR Indicates): 84/12/11-85/12/10. A1C-(APR Indicates): 85/12/11-86/12/10. SRA-(APR Indicates): 86/12/11-87/08/31. SGT-(APR Indicates): 87/09/01-88/06/12. SSGT - 92/04/01. TSGT-(EPR Indicates): 97/01/06-98/01/05. APRs: 9,9,9,9,9. EPRs: 4,5,5,4,5,5,5,5,3.

ART 15: 96/09/10, Offutt AFB, NE - Article 92. You, having knowledge of a lawful order issued by Colonel -----, 55 Support Group Commander, not to operate any motor vehicle on Offutt AFB, an order which it was your duty to obey, did, at Offutt AFB, o/a 2 Aug 96, fail to obey the same by wrongfully driving on base. Written reprimand and 15 days extra duty.

3. **SERVICE UNDER REVIEW:**

a. Reenld as TSGT 97/07/25 for 6 yrs. Svd: 0 Yrs 9 Mo 13 Das, all AMS.

b. Grade Status: SSGT - 97/10/22 (Article 15, Vacation, 98/01/29)

c. Time Lost: none.

d. Art 15's: (1) 98/01/29, Vacation, Offutt AFB, NE - Article 107. You did, o/a 13 Jan 98, with intent to deceive, make to MSgt -----, an official statement, to wit: that you had not called the ----- residence anytime on 11 Jan 98, which statement was false in that you had called the -----'s residence, and was then known by you to be so false. Rdn to SSGT. (No appeal) (No mitigation)

(2) 97/10/22, Offutt AFB, NE - Article 92. You, who knew of

your duties, o/a 3 Oct 97, were derelict in the performance of those duties in that you failed to refrain from operating a motor vehicle while your vehicle drivers license was suspended. Rdn to SSgt (susp til 21 Apr 98), 14 days extra duty and a reprimand. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 97/01/06 98/01/05 Offutt AFB 3 (Annual)  
(Discharged from Offutt AFB)

h. Awards & Decs: AFCM W/3 DEV, AFLSAR W/2 DEV, AFTR, SWASM W/1 DEV, AFOSSTR, NDSM, HSM, NCOPMER, AFOUA W/3 DEV, AFGCM W/2 DEV.

i. Stmt of Sv: TMS: (14) Yrs (0) Mos (29) Das  
TAMS: (13) Yrs (4) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/07/10.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. DD Form 149.

00/08/03/ia



administrative discharge board. This waiver is contingent upon her receipt of no less than a general discharge. She did not submit any other matters to the commander.

5. **DISCUSSION:**

a. **Basis for Discharge:** Under AFI 36-3208, paragraph 5.50.2, airmen are subject to discharge for a pattern of misconduct which is prejudicial to good order and discipline. This includes conduct of a nature that tends to disrupt order, discipline, or morale within the military community. The misconduct usually involves causing dissent, disruption, and degradation of mission effectiveness. In this case, the respondent's two incidents of misconduct in the last seven months provide a sufficient basis for discharge.

b. **Appropriateness of Discharge:** The respondent's pattern of misconduct does not support continued military service. Her inability or unwillingness to conform her conduct to acceptable Air Force Standards of behavior is inconsistent with military service. In this case, in addition to the nonjudicial punishment and vacation action in the current enlistment, the respondent also received another nonjudicial punishment and two letters of reprimand in her prior enlistment. The respondent's pattern of misconduct does not support continued military service.

c. **Characterization of Service:** AFI 36-3208, paragraph 1.18.2 states that if an airman's service has been honest and faithful, the general discharge characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. In this case, the respondent failed to refrain from operating a motor vehicle while her driver's license was suspended and made a false official statement. These acts of misconduct outweigh any positive aspects of her current enlistment, which began on 25 July 1997. Accordingly, a general discharge is the appropriate characterization.

d. **Probation & Rehabilitation:** The respondent is eligible for P&R under AFI 36-3208, chapter 7. The initiating commander does not recommend P&R. All rehabilitative efforts made on the respondent's behalf have failed. Therefore, it appears she is unable or unwilling to adhere to Air Force standards. An additional opportunity for rehabilitation through P&R is not justified.

e. **Legal Sufficiency:** This action is found to be legally sufficient.

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

a. Retain the respondent;

b. Forward the case file to 12 AF/CC with a recommendation to accept the conditional waiver and that the respondent be separated with either an honorable or general discharge with, or without P&R; or

c. Reject the conditional waiver and inform the respondent to either submit an unconditional waiver or request a board hearing.



7. **RECOMMENDATION:** That you forward the package to 12 AF/CC with the recommendation that the conditional waiver be accepted and that the respondent be separated with a general discharge without P&R.

Acting Staff Judge Advocate

Attachment:  
Case File



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

MEMORANDUM FOR SSGT

FROM: 755 CS/CC

SUBJECT: Letter of Notification--Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct--Pattern of Misconduct. The authority for my recommendation is AFD 36-32 and AFI 36-3208, 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 or about 3 October 1997, at Offutt Air Force Base, Nebraska, you were derelict in the performance of your duties in that you failed to refrain from operating a motor vehicle while your drivers license was suspended. For this incident, you received nonjudicial punishment, dated 22 October 1997, consisting of a suspended reduction to the grade of staff sergeant, 14 days extra duty and a reprimand. (Atch 1-1)

b. On or about 13 January 1998, at Offutt Air Force Base, Nebraska, you did, with intent to deceive, make to Master Sergeant an official statement, to wit: that you had not called the residence anytime on 11 January 1998, which statement was false in that you had called the residence, and was then known by you to be so false. For this incident, the suspended portion of your nonjudicial punishment was vacated, and you were reduced to the rank of staff sergeant, effective 22 October 1997. (Atch 1-2)

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising special court-martial 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 probably any other branch of the military.

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 must report to physical exams at Fairchild Hall with your medical records to schedule a separation physical.
6. Military legal counsel is available to assist you. I have made an appointment for you to consult Captain \_\_\_\_\_ Area Defense Counsel, Bldg 323C, RM 302, Phone 4-3939, at \_\_\_\_\_ hrs on \_\_\_\_\_. Instead of the appointed military 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 to assist you.
7. Confer with your counsel and reply, in writing, within seven workdays (NLT \_\_\_\_\_ 1997), 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 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.
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 hearing and fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.
10. Execute the attached acknowledgment and return it to me immediately.

Attachments:

Atch 1-1; Nonjudicial punishment, 22 Oct 97

Atch 1-2; Vacation action, 29 Jan 98