



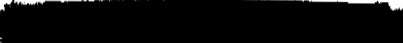


AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 	GRADE AMN	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	UOTHC	OTHER	DENY
					X*
					X*
					X*
					X*
					X

ISSUES A01.13, A94.05, A93.15	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 03-03-27	CASE NUMBER FD2001-0211	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	

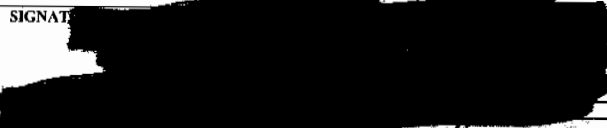
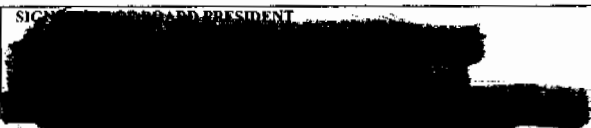
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

REMARKS

*Change Reason and Authority to Minor Disciplinary Infractions.

Case heard at Washington, D.C.

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

SIGNATURE 	SIGNATURE OF BOARD PRESIDENT 
INDORSEMENT	DATE: 03-03-28

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

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB, MD, on March 28, 2003. The following witness also testified on the applicant's behalf: [REDACTED], applicant's aunt.

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

FINDINGS: Upgrade of discharge is denied. Reason and authority for discharge are changed to more accurately reflect the basis for member's discharge.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge. However, based on applicant's testimony, the Board finds that the applicant's reason for discharge should be changed.

The applicant's issues are listed in the attached brief.

Issues. Applicant was discharged for a pattern of misconduct. He had five Letters of Reprimand, two Letters of Admonishment, two Department of Defense traffic tickets, and an Article 15. Member also failed his Career Development Course, and of two Enlisted Performance Reports, one was rated an overall referral "2." Member's misconduct included failing to follow a technical order, three instances of speeding (two on base), multiple incidents of failure to go, sleeping on duty, writing a bad check, misuse of his government travel card, failing a dorm inspection, and "with intent to deceive" falsifying documents to receive Overseas Housing Allowance (OHA) and Basic Allowance for Quarters (BAQ) when not entitled due to insufficient rank. Applicant testified with respect to the dereliction of duty regarding the technical order, the Letter of Admonishment he received was unwarranted because he had brought a problem to his superior noncommissioned officers' attention but was told to finish the job in the manner he did. Regarding the alleged falsification of financial documents, applicant testified he was about to be promoted and his First Sergeant, [REDACTED], told him to fill out the paperwork with the higher grade; then his promotion was deferred, but he didn't realize he wasn't authorized to receive the housing benefits as an Airman First Class. Applicant essentially agreed that the other occurrences of misconduct had happened, although he felt his First Sergeant at the time of discharge (not SMSgt [REDACTED] was racially prejudice against him which predicated the decision to discharge member without the opportunity for probation and rehabilitation. In an effort to clarify applicant's testimony, the Board contacted SMSgt [REDACTED] who essentially corroborated applicant's version of events regarding the dereliction incident, and the false paperwork, but also noted member was aware he was being authorized those benefits due to his pending promotion, and should have made an effort to correct the situation when his promotion was deferred. SMSgt [REDACTED] also advised he had verbally counseled member in the presence of member's supervisor on several occasions and had told member he was heading down the wrong path and needed to turn himself around. The Board concurred that the LOA for dereliction was too harsh under the circumstances, and agreed member didn't intend to deceive in order to fraudulently obtain benefits to which he wasn't entitled, but also concluded member had an affirmative obligation to rectify the OHA and BAQ situation when he didn't get promoted, an obligation he failed to fulfill. The Board found no merit in the issue of racial discrimination in the absence of supporting evidence other than applicant's testimony. The Board noted that aside from these two questionable incidents, there was sufficient other misconduct on which to base an administrative discharge, and when member's misconduct occurred, member was the same age as other airmen who had adhered to the standards. He knew right from wrong, and there was no evidence of immaturity or inaptitude, so he was held accountable for his actions.

The Board surmised that although member's misconduct was a departure from the standards expected of airmen, it didn't rise to the level of serious misconduct that would warrant the reason and authority for his discharge to be a "pattern of misconduct." Therefore, the Board determined the basis for member's discharge would be better portrayed as "minor disciplinary infractions." Except for changing the reason for discharge in this way, the Board could find no wrongful action by the Air Force, nor an inequity or impropriety on which to base an upgrade.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was essentially 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 characterization of discharge should not be changed. However, the board further concludes that the reason and authority for discharge is more accurately described as minor disciplinary infractions, thus the applicant's reason and authority for discharge should be changed to minor disciplinary infractions under Title 10, USC1553.

Attachment:
Examiner's Brief

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

[REDACTED]

(Former AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/10/13 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/12/27. Enlmt Age: 17 2/12. Disch Age: 20 9/12. Educ:HS DIPL. AFQT: N/A. A-45, E-51, G-41, M-31. PAFSC: 2W131E - Aircraft Armament Systems Apprentice. DAS: 97/12/27.

b. Prior Sv: (1) AFRes 97/03/19 - 97/08/05 (4 months 17 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 97/08/06 Svd: 3 Yrs 2 Mo 8 Das, all AMS.

Grade Status: AMN - 00/08/10 (Article 15, 00/08/10)

c. Time Lost: none.

d. Art 15's: (1) 00/18/10, RAF Lakenheath, UK - Article 107. You did, on divers occasions, between on or about 1 Jun 00, and on or about 1 Jul 00, with intent to deceive, sign official documents, including, to wit: a Request to Receive Advance Overseas Housing Allowance (OHA), an Application and Authorization to Start, Stop or Change Basic Allowance for Quarters (BAQ), and an Individual Overseas Housing Allowance(OHA) Report, which documents were false in that you were not a senior airman as you certified on these documents, and this was then known by you to be so false. Rdn to Amn, forfeiture of \$563.00 pay per month for 2 months (suspended until 08 Feb 01), and 45 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 28 JUL 00 - Bad check.
LOR, 28 JUL 00 - Failure to go.
DD 1408, 27 JUN 00 - Speeding ticket.
DD 1408, 03 MAY 00 - Speeding ticket.
LOR, 27 MAR 00 - Sleeping on duty.
LOR, 11 OCT 99 - Failure to go.
LOA, 12 NOV 99 - Failed monthly dorm inspection.
LOR, 12 NOV 99 - Misuse of government credit card.
LOA, 24 FEB 99 - Dereliction of duty.

f. CM: none.

- g. Record of SV: 99/08/06 - 99/01/15 RAF Lakenheath 4 (HAF Dir)
 99/01/16 - 00/01/15 RAF Lakenheath 2 (Annual)

(Discharged from McGuire AFB)

- h. Awards & Decs: AFAM, AFOUA W/1 DEV, AFEM, AFOSLTR, AFTR, NATOM.

- i. Stmt of Sv: TMS: (3) Yrs (6) Mos (25) Das
 TAMS: (3) Yrs (2) Mos (8) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/05/31.
 (Change Discharge to Honorable)

Issue 1: I explain how it happened: I was offer BAS I apply my imidiate (sic) supv (sic) sign the paper work an then the flight chief and then the firs (sic) Sgt. The paperwork was sommitted (sic) to Housing while it was being process (sic). The first Sgt got tranfer (sic) when the paperwork came bak (sic). The new First First (sic) approved it and then the Squadron Commander. I move of base. A couple of months went by and then the paperwork came back from Security Police as falsified, because of my current rank at the time of applying. For that error that I commit I got a Article 15 reduction in rank, an a General Discharge. I am asking the Board to take in consideration that if someone would have brief me that I have to wait until I make the rank of Senior Airman which I already had, this incident would had never happened. And my military caeer would had never ended the way it did, because I wanted to serve my country for 20 yrs. Because I love the Air Force, I am asking that my discharge be change (sic) to Honorable so in civilian life I could get a disent (sic) job. Because right know (sic) the doors have been closed everywhere (sic) I apply.

ATCH

1. DD 214.

01/10/03/ia



DEPARTMENT OF THE AIR FORCE
48th FIGHTER WING (USAF)

SEP 18 2000

MEMORANDUM FOR 48 FW/CC

FROM: 48 FW/JA

SUBJECT: Legal Review, Administrative Discharge, [REDACTED]

1. **Authority for Action:** We have reviewed the attached administrative discharge package in accordance with AFI 36-3208 and find that the respondent, [REDACTED] is subject to discharge for a pattern of misconduct, under AFI 36-3208, Chapter 5, Section II, paragraph 5.50. All further paragraph references are to AFI 36-3208 unless specifically stated otherwise.

2. **Respondent's Military Record:** The respondent has been on active duty since 6 Aug 97 and stationed at RAF Lakenheath since 10 Feb 98. The respondent has one EPR: 2 (Referral) - 18 Jan 00. His awards and decorations include the Armed Forces Expeditionary Medal, Air Force Outstanding Unit Award and Air Force Training Ribbon (Tab B6).

3. **Respondent's Response:** The respondent was afforded the opportunity to consult counsel and has submitted a statement for your consideration (Tab C3). Note, the respondent was notified of his rights to consult counsel and submit matters on 29 August 2000. However, the Receipt of Notification Memorandum was not accomplished at that time, as explained in the first sergeant's e-mail (Tab C3). Subsequently, the respondent did sign the Receipt of Notification Memorandum (Tab C2).

4. **Analysis:**

a. **Basis for Discharge:** The following actions establish a pattern of misconduct and a basis for discharge under paragraph 5.50:

(1) On or about 12 Feb 99, at or near RAF Lakenheath UK, respondent, who knew of his duty was derelict in his duty in that he negligently failed to obey Technical Order 1F-15E-33-1-2, by failing to check that the arming lanyards were installed and adjusted on the GBU 24, thus there was no arming lanyard from the bomb to the aircraft as it was his duty to do.

(2) On or about 23 Aug 99, at or near Risby, Suffolk, UK, respondent was exceeding the posted 70 mph zone by speeding at a rate of 91 mph.

(3) On or about 9 Sep 99, at an unknown location, respondent was derelict in the performance of his duties in that he willfully misused his government credit card in the amount of \$290.34.

(4) On or about 4 Oct 99, at or near RAF Lakenheath, UK, respondent, who knew of his duty was derelict in his duty in that he negligently failed a monthly dormitory inspection, by not maintaining the minimum standards of safety and health within his quarters, as it was his duty to do.

(5) On or about 7 Oct 99, at or near RAF Feltwell, UK, respondent failed to go at the time prescribed to his appointed place of duty, to wit: Combat Arms Training, Bldg 230.

(6) On or about 24 Mar 00, at or near RAF Lakenheath, UK, respondent, who knew of his duty was derelict in the performance of his duty in that he negligently failed to stay awake during an exercise briefing, as it was his duty to do.

(7) On or about 13 Apr 00, at or near RAF Mildenhall, UK, respondent wrongfully uttered a certain check for the payment of money upon the Galaxy Club, in the amount of One hundred-sixty-eight dollars and no cents, \$168.00 which check was returned for nonsufficient funds.

(8) On or about 3 May 00, at or near Aviano AB, Italy, respondent, having knowledge of a lawful order, to wit: to operate his vehicle at or under the posted speed limit of 30 mph, an order which it was his duty to obey, did fail to obey the same by operating his vehicle at the rate of 38 mph.

(9) On or about 27 Jun 00, at or near RAF Mildenhall, respondent, having knowledge of a lawful order, to wit: to operate his vehicle at or under the posted speed limit of 15 mph, an order which it was his duty to obey, did fail to obey the same by operating his vehicle at the rate of 26 mph.

(10) On or about 24 Jul 00, at or near RAF Lakenheath, UK, respondent failed to go at the time prescribed to his appointed place of duty, to wit: Chemical Warfare Training, Bldg 1301.

(11) Respondent did, at or near RAF Lakenheath, UK, on divers occasions, between on or about 1 Jun 00 and on or about 1 Jul 00, with intent to deceive, sign official documents, including, to wit: a Request to Receive Advance Overseas Housing Allowance (OHA), an Application to Start, Stop or Change Basic Allowance for Quarters (BAQ), and an Individual Overseas Housing Allowance (OHA) Report, which documents were false in that he was not a senior airman as he certified on these documents, and this was then known by him to be so false.¹

b. Characterization of Discharge: The initiating commander recommends a general discharge. For a discharge based on Section II, paragraph 5.50, pattern of misconduct, an honorable discharge, a general discharge, and an under other than honorable conditions discharge are authorized. The commander has considered the respondent's entire career and recommends a

¹ Due to an administrative error the date noted on the Notification Memorandum for this action was the date the Article 15 was presented to the respondent.

PD 2001-0211

general discharge. We agree with the commander's recommendation. The respondent's misconduct has had a significantly negative impact on his Air Force career, which clearly outweighs any positives. Therefore, a general discharge is an appropriate characterization for his service.

c. Probation and Rehabilitation (P&R): The initiating commander does not recommend P&R. The respondent has been given ample time to rehabilitate and show improvement. The commander states the unit has used every possible means available to rehabilitate [REDACTED] but nothing has worked. The commander does not believe that there is a reasonable expectation for rehabilitation in the future. Additionally, his failure to respond to rehabilitative actions and continuing disregard for standards reflect an inability or unwillingness to be a productive member of the Air Force. We agree with the commander that P&R would not be appropriate in this case.

5. Options: As the Special Court-Martial Convening Authority, you may:

- a. direct [REDACTED]'s retention in the United States Air Force;
- b. direct that [REDACTED] be separated under paragraph 5.50 with a general discharge, with or without P&R;
- c. forward a recommendation for separation with an honorable discharge, with or without P&R, to the General Court-Martial Convening Authority, 3 AF/CC (AFI 36-3208, paragraph 5.56.2.1); or
- d. direct that a board be convened if you believe an under other than honorable conditions discharge is warranted.

6. Recommendation: We recommend that you sign the attached letter at Tab A directing [REDACTED] be discharged from the Air Force with a general discharge without P&R.

[REDACTED]
Maj. USAF
Acting Staff Judge Advocate

FD 2001-0211

DEPARTMENT OF THE AIR FORCE
48TH FIGHTER WING (USAFE)

MEMORANDUM FOR [REDACTED]

24 Aug 00

FROM: 494 FS/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, under the provisions of paragraph 5.50. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 10 Aug 00, you signed statements which were false, for which you received an Article 15, resulting in a reduction to the grade of airman, suspended forfeiture of \$563.00 pay per month for two months and 45 days extra duty.

b. On 24 Jul 00, you failed to go to a scheduled appointment for which you received an LOR.

c. On 27 Jun 00, you were speeding on RAF Mildenhall for which you received a DD Form 1408 Armed Forces Traffic Ticket.

d. On 3 May 00, you were speeding while deployed for which you received a DD Form 1408 Armed Forces Traffic Ticket.

e. On 13 Apr 00, you signed a check in the amount of \$168.00, that was returned for nonsufficient funds for which you received a Letter of Reprimand (LOR).

f. On 24 Mar 00, you were sleeping on duty for which you received a Letter of Counseling.

g. On 23 Aug 99, you were speeding in Risby, Suffolk for which you were convicted by a British Court, resulting in a fine of £40 and given three penalty points against your license.

h. On 7 Oct 99, you failed to go to a scheduled appointment for which you received an LOR.

i. On 4 Oct 99, you failed a monthly dormitory inspection for which you received a Letter of Admonishment (LOA).

j. On 9 Sep 99, you misused your government credit card for which you received an LOR.

k. On or about 12 Feb 99, you were derelict in your duty for which you received an LOA.

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.
4. You have the right to consult counsel. Military legal counsel [REDACTED] **Area Defense Counsel**, extension 3608, has been obtained to assist you. An appointment has been scheduled for you to consult him **1330 hours on 31 Aug 00**. 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 by 1 Sep 00 1430 hrs unless you request and I grant an extension for good cause. Any statement(s) you submit will be forwarded 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 must report to the **Physical Exam** section at the 48th Medical Group, on **30 Aug 00 at 0930 hours**, see [REDACTED]. If you wear eyeglasses, you must bring them with you. You also must report to the **Family Practice** section of the 48th Medical Group, on **30 Aug 00 at 1020 (you must pick up a form from Family Practice prior to your appointment date)**. You must report to these appointments at least 15 minutes prior to the appointment time. **If you are unable to make any of your scheduled appointments, you must contact the First Sergeant immediately.**
8. The Privacy Act Statement covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in your unit orderly room.
9. Sign the attached acknowledgment and return it to me immediately.

[REDACTED], Lt Col, USAF
Commander

Attachments:

1. Supporting Documentation:
 - a. Art 15, dtd 10 Aug 00
 - b. LOR, dtd 28 Jul 00
 - c. LOR, dtd 27 Jul 00
 - d. DD Form, Armed Forces Traffic Ticket, dtd 27 May 00
 - e. DD Form, Armed Forces Traffic Ticket, dtd 3 May 00
 - f. LOC, dtd 27 Mar 00
 - g. Notification of Conviction in British Court, dtd 14 Nov 99
 - h. LOR, dtd 12 Nov 99
 - i. LOA, dtd 12 Nov 99
 - j. LOR, dtd 18 Oct 99
 - k. LOA, dtd 24 Apr 99