

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AIC	AFSN/SSAN [REDACTED]
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TYPE	<input checked="" type="checkbox"/> PERSONAL APPEARANCE	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTRC*	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.01	INDEX NUMBER A67.30	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
HEARING DATE 3 JUN 03	CASE NUMBER FD2002-0073	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 Scott AFB, Illinois.

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

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 3 JUN 03
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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 RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0073

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

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

FINDINGS: Upgrade of discharge to Honorable is denied as well as a change in Reason and Authority and a change to the RE Code.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an impropriety or inequity that would justify upgrade of the discharge.

ISSUES: The applicant was discharged with a General Discharge for Misconduct – Commission of a Serious Offense. Applicant received a Special Court Martial for failure to obey a lawful written order, being willfully derelict in the performance of his duties, wrongfully endeavor to impede an investigation of himself and others, and with intent to deceive, make a false official record. Applicant admits that he made a mistake but that he excelled above his peers while serving in the Air Force. The DRB took note of the applicant's duty performance as documented by his performance reports 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. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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.

Attachment:
Examiner's Brief

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

(Former A1C) (HGH SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 96/01/03 UP AFI 36-3208, para 5.52 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge, Change in Reason and Authority for Discharge, and to Change the RE Code. Disch.

2. BACKGROUND:

a. DOB: 73/03/10. Enlmt Age: 18 6/12. Disch Age: 22 9/12. Educ: HS DIPL. AFQT: N/A. A-54, E-62, G-68, M-43. PAFSC: 3P051 - Security Journeyman. DAS: 94/07/01.

b. Prior Sv: (1) AFRes 91/09/30 - 92/04/28 (6 months 29 days) (Inactive).

(2) Enlisted as AB 92/04/29 for 4 yrs. Svd: 3 yrs 2 months 14 days, all AMS. AMN - 92/10/29. A1C - 93/08/29. SRA - 94/10/29. EPRs: 5,5.

3. SERVICE UNDER REVIEW:

a. Reenlisted as SrA 95/07/14 for 4 yrs. Svd: 00 Yrs 05 Mo 20 Das, all AMS.

b. Grade Status: A1C - 95/12/14 (SPCMO No. 1, 95/12/14).

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: Special Court Martial Order No.1 - 95 December 14

CHARGE I. Article 92. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at Missile Site K-O, Grand Forks AFB, ND, on or about 10 Jul 95, fail to obey a lawful written order. Plea: Guilty. Finding: Guilty.

Specification 2: Was, at Missile Site K-O, Grand Forks AFB, ND, on or about 10 Jul 95, willfully derelict in the performance of duties. Plea: Guilty. Finding: Guilty.

CHARGE II. Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at Grand Forks AFB, ND, on or about 10 Jul 95 and continuing until on or about 20 Sep 95, wrongfully endeavor to

impede an investigation of himself and others.

CHARGE III: Article 107. Plea: Guilty. Finding: Guilty.

Specification: Did, at Missile Site K-O, Grand Forks AFB, ND, on or about 10 Jul 95, with intent to deceive, make a false official record. Sentence adjudged on 14 Nov 95: Reduction to A1C and a reprimand.

g. Record of SV: 93/12/30 - 94/12/29 Grand Forks AFB 5 (Annual)

(Discharged from Grand Forks AFB)

h. Awards & Decs: AFTR, NDSM, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (03) Mos (04) Das
TAMS: (03) Yrs (08) Mos (05) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/02/19.

(Change Discharge to Honorable, Change Reason and Authority for Discharge, and Change the RE Code)

Issue 1: This is a request for an upgrade from my General Discharge Under Honorable Conditions to an Honorable Discharge. I excelled above my peers while serving in the United States Air Force and have sufficient documentations that show that I took serving our country seriously. I made a mistake from which I have learned and to this day I am still remorseful for disappointing my fellow servicemen and servicewomen. Please look carefully at what my pattern of conduct was while in the service. This request is not a request so that I can use to my advantage in future careers but rather to get what I feel that I deserve and strongly desire. That mistake has weighed heavily on my conscious since the day it happened and would definitely make a better decision if I could do it over again. I feel truly lucky to live in this country and would jump at the chance to serve in the military again if given the opportunity. Please consider all of the positive I accomplished while in the military when making a decision.

I am now 28 years old and have been out of the military for 6 years. I have had 1 employer since I was discharged and have served my employer with loyalty like I feel I did for the Air Force and I have found success in every task given to me. Please feel free to call my home at ----- if you have questions of me. Thank you for your time and consideration.

ATCH

1. Applicant's Issues with 57 attachments.

02/06/04/ia



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS 319TH AIR REFUELING WING (AMC)
 GRAND FORKS AIR FORCE BASE, NORTH DAKOTA

22 Dec 95

MEMORANDUM FOR 319 ARW/CC

FROM: 319 ARW/JA

SUBJECT: Legal Review Of Discharge - A1C [REDACTED] (AFSPC)

1. I reviewed and found legally sufficient the attached AFI 36-3208 discharge package contingent upon inclusion of a medical report clearing the respondent for separation. The respondent is eligible for discharge per AFI 36-3208, paragraph 5.52 (Commission Of A Serious Offense).
2. 448 MS/CC initiated action to administratively discharge A1C [REDACTED] on 18 Dec 95 due to his commission of a serious offense according to AFI 36-3208, paragraph 5.52.3. On or about 10 Jul 95, A1C [REDACTED] wrongfully admitted two unauthorized civilian women into the restricted area at Missile Site Kilo-0. In so doing, he violated a lawful written order, and was willfully derelict in the performance of his duties by both admitting the unauthorized women into the restricted area and failing to report their presence to his superiors. He made a false official record by failing to record the entry of the unauthorized civilian women in his Flight Security Controller (FSC) security police desk blotter. Finally, he obstructed justice by attempting to impede the investigation of the incident by communicating a request to others involved to keep quiet and deny everything about the security breach.
3. A1C [REDACTED] pled guilty in a special court-martial on 14 Nov 95. His sentence consisted of a reprimand and a reduction to his current grade of Airman First Class.
4. A1C [REDACTED] is subject to discharge for commission of a serious offense per AFI 36-3208, paragraph 5.52.3. This basis requires that the member commit an offense for which a punitive discharge would be authorized under the Manual for Court-Martial. The evidence establishes that A1C [REDACTED] committed offenses in violation of Articles 92(2), 92(3), 107 and 134 of the Uniform Code of Military Justice (UCMJ). As described above, he violated a lawful written order and he was willfully derelict in the performance of his duties. He then made a false official record about the events, and later tried to impede the investigation of the incident. Each of these Articles of the UCMJ authorizes a punitive discharge. Because A1C committed offenses for which punitive discharges are authorized, this discharge is appropriate under AFI 36-3208, paragraph 5.52.3.
5. The respondent is 22 years old and began his current enlistment on 14 Jul 95. His total active federal military service date is 29 Apr 92. He has received two EPRs, each rating him an overall 5. The respondent consulted counsel and submits a response to this action. In his response, he recounts the events associated with the missile site incident, and describes his successful military career. He says he believes he has the potential to succeed in the Air Force and has much to offer. He apologizes and feels the punishment he has already received is sufficient for his offense. He asks to make a personal appearance before you so you can see who he is and what he is like. Finally, he asks that if you decide to discharge him that his service be characterized as honorable. A1C [REDACTED] included another copy of his court-martial clemency package in support of his discharge reply.

6. The respondent's misconduct by his commission of serious offenses are significant negative aspects of his service record which outweigh any periods of satisfactory duty performance. Although he has a strong military record, this cannot overcome the gravity of his offenses. The respondent should be discharged and a general discharge would be appropriate.

7. If you determine that the allegations against the respondent support discharge and that he should be discharged, you must decide whether or not his discharge should be suspended for a period of probation and rehabilitation (P&R). P&R is appropriate when it appears that the affected airman can change his or her pattern of behavior. In this case, AIC [REDACTED]'s misconduct is so serious that his return to the squadron would be harmful to morale and discipline. He has blatantly violated four punitive articles of the UCMJ by his misconduct. I do not recommend that this respondent receive P&R.

8. As SPCM separation authority, you may:

a. Terminate this action and retain the respondent;

b. Approve the respondent's separation with a general discharge with or without probation and rehabilitation;

c. Forward the case to 21 AF/CC recommending separation with an honorable discharge with or without probation and rehabilitation; or

d. Direct reinitiation of the action if you determine that an under other than honorable conditions discharge is the only appropriate service characterization in this case.

I recommend you approve the respondent's separation with a general discharge without probation and rehabilitation. I also recommend you do not grant his request for a personal meeting with you.

[REDACTED]
[REDACTED] Capt, USAF
Chief, Military Justice

I concur.

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



DEPARTMENT OF THE AIR FORCE
321ST MISSILE GROUP (AFSPC)

FD2002-0073

MEMORANDUM FOR AIC [REDACTED]

18 Dec 95

FROM: 448 MS/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for the commission of a serious offense. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52. 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:

On or about 10 Jul 95, you failed to follow a lawful written order issued by the Commander, Grand Forks AFB, ND, in Base Instruction 31-101, by allowing two unauthorized civilians to enter a restricted area of the Missile Alert Facility (MAF) at K-0. You were derelict in the performance of your duties when you willfully failed to keep unauthorized civilians out of the restricted area of the MAF and to report the presence of such persons to your superiors. On or about 10 Jul 95, you made a false official record by failing to enter the unauthorized entry of the two unauthorized civilians on the security police blotter. On or about 10 Jul 95 and continuing to on or about 20 Sep 95, you tried to impede an investigation by communicating a request to deny everything about the security breach. You were found guilty of this misconduct in a special court-martial on 14 Nov 95, and sentenced to a reprimand and reduction to Airman First Class.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The Commander exercising SPCM jurisdiction or 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. You have been scheduled an appointment at the Office of the Area Defense Counsel at Building 216 on 18 Dec 95 at 1400 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 by 21 Dec 95 at 1245 hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.

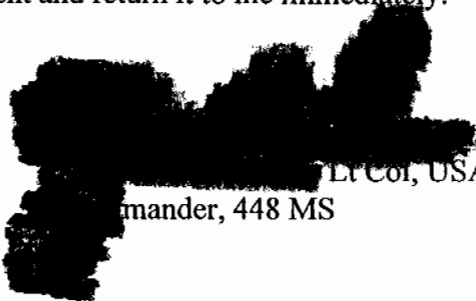
6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 319th Medical Group on ~~2070~~ at 0770 hours for the examination.

8. Deliver to me immediately your military identification card and those of your dependents. I have requested that temporary identification cards be issued IAW AFI 36-3001, paragraph 4.2. You will report to me by COB 19 Dec 95, to verify that issuance of Temporary Identification Card(s) has been accomplished.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in the attachment to this letter. A copy of AFI 36-3208 is available for your use in the squadron orderly room.

10. Execute the attached acknowledgment and return it to me immediately.


Lt Col, USAF
Commander, 448 MS

4 Attachments:

1. Privacy Act Statement
2. Supporting Documents
SPCMO No. 1 dated 14 Dec 95
3. Respondent's Tab
4. Personnel Data