

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN		
[REDACTED]		AB	[REDACTED]		
TYPE	X PERSONAL APPEARANCE		RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			
YES	NO	ADDRESS AND OR ORGANIZATION OF COUNSEL			
	X				
MEMBERS SITTING		VOTE OF THE BOARD			
		HON	GEN	UOTHC	OTHER
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
ISSUES A92.21		INDEX NUMBER A67.90		EXHIBITS SUBMITTED TO THE BOARD	
HEARING DATE 2 JUN 03		CASE NUMBER FD2002-0150		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
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 Scott AFB, Illinois.					
Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.					
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT		
[REDACTED]			[REDACTED]		
ENDORSEMENT			DATE: 9 Jul 03		
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		

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0150

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Scott AFB, IL on June 2, 2003. The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions.

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.

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 several disciplinary infractions. Member received two Article 15s for underage drinking. She also received one Letter of Reprimand for underage drinking and a Letter of Counseling for dereliction of duty. Applicant states she continued to drink alcoholic beverages even after she received non-judicial punishment. The DRB concluded that the applicant was given the opportunity to correct her behavior but chose to continue possessing alcohol. She was apprehended for possessing alcohol the day after she was issued a Letter of Reprimand. The characteristic of the discharge received by the applicant was found to be appropriate.

The applicant claims she was not given the opportunity to adequately prepare and present her case. The DRB has made every attempt to provide the applicant with ample opportunity to present her case and submit any documentation to support her cause. The applicant's case went before a non-personal appearance on July 12, 2000 and a personal appearance on June 2, 2003. Furthermore, the applicant was offered on June 3, 2003 an additional 30 days to submit further documentation. An additional statement was submitted but it did not provide any new or clarifying information to support her case. At the time the additional statement was submitted, the applicant informed her counsel she still did not feel she was able to completely present her case.

Additionally, there appears to be an issue concerning the relationship between the applicant and her mother. The DRB welcomes any applicant's guest to either testify before the Board or view the Board's proceedings. The applicant's mother appears to be very interested in supporting her daughter and has participated with her daughter in the DRB process. However, the applicant refused to allow her mother to testify on the applicant's behalf or view the hearing.

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

FD2002-0150

[REDACTED] (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a Gen Dish fr USAF 99/10/15 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order & Discipline). Appeals for HON Discharge.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 00/03/21.

b. The AFDRB reviewed case on 00/07/12 (non-appearance w/counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 02/03/13. (Change Discharge to Honorable).

ISSUE 1: I was given a General Discharge in Oct of 1999. The reason was misconduct. I was caught in the barracks while underage. This in fact is true. Due to my immaturity it did not seem like a big deal. I have since learned that it was the biggest mistake of my life. However, I feel that the punishment was overly severe in that the people who were with me on several of the occasions were not arrested or charged and none of them were forced out with a general discharge although they were also underage.

I have been employed at my current job for over 1 year and I am in a supervisory position. I have been attending college and am in hope of furthering my education and position with the company. I feel that I could make a better contribution to life if I can get this blot off of my record. I am requesting that my discharge be upgraded to honorable.

Atch

1. Four Character References.
2. DD Forms 214 (Member 4 & 1).

02/07/15/ai

FD-00-00198

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

(Former AB) MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/10/15 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for HON Disch.

2. **BACKGROUND:**

a. DOB: 79/05/09. Enlmt Age: 18 0/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-89, E-45, G-33, M-41. PAFSC: 1C032 - Operations Resource Management Apprentice. DAS: 98/04/28.

b. Prior Sv: AFRes 97/05/13 - 97/11/24 (6 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 97/11/25 for 4 yrs. Svd: 1 Yrs 10 Mo 21 Das, all AMS.

b. Grade Status: AB - 99/09/20 (ARTICLE 15, 99/09/20)
AMN - 99/01/01
AB - 98/07/01 (ARTICLE 15, 98/07/01)
AMN - 98/05/25

c. Time Lost: none.

d. Art 15's: (1) 99/09/20, Shaw AFB, SC - Article 134. You did, o/a 23 Aug 99, unlawfully possess beer while under the age of twenty-one years, in violation of South Carolina Code Annotated Section 20-7-8920 as made applicable to military members pursuant to the Federal Assimilative Crimes Act, Title 18 US Code, Section 13. Rdn to AB, 45 days restriction, 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

(2) 98/07/01, Shaw AFB, SC - Article 134. You did, between o/a 19 Jun 98, and o/a 20 Jun 98, unlawfully possess alcoholic beverages while under the age of twenty-one years, in violation of South Carolina Code Annotated Section 20-7-370, as made applicable to military members pursuant to the Federal Assimilative Crimes Act, Title 18 US Code, Section 13. Rdn to AB, reprimand, and 45 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 18 JUN 98 - Alcohol Consumption by a minor.
LOC, 06 JUL 99 - Dereliction of duty.

FD00-00198

f. CM: none.

g. Record of SV: 97/11/25 99/07/24 Shaw AFB 4 (Initial)
(Discharged from Shaw AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (2) Das
TAMS: (1) Yrs (10) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/03/21.
(Change Discharge to Honorable)

Issue 1: This incident happen when I was off duty, I was very cooperated, sorry for what I done, also if you would please check the incident, you will find out, there were 2 male soldiers that was there also, and nothing happen to them. Thank your for your assitance.

ATCH

1. DD Form 214 (Member - 1)
2. DD Form 214 (Member - 2)
3. VA Cover Letter.

00/05/19/ia



DEPARTMENT OF THE AIR FORCE
20TH FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

FD 2002-0150

MEMORANDUM FOR 20 FW/CC

14 OCT 1999

FROM: 20 FW/JA
504 Shaw Drive
Shaw AFB SC 29152-5028

SUBJECT: Legal Review of AFI 36-3208 Action [REDACTED]

1. Basis for Action: The Commander, 77th Fighter Squadron has recommended that [REDACTED] be separated from the service with a general discharge for a pattern of misconduct – conduct prejudicial to the maintenance of good order and discipline, pursuant to AFD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.50.2. The Respondent is being processed according to the notification procedure.

2. Facts: The file reflects that the Respondent has been involved in the following incidents of misconduct:

a. On or about 17 Jun 98, the Respondent was apprehended by Shaw Security Forces personnel for alcohol consumption by a minor. For this misconduct, she received a letter of reprimand (LOR), dated 18 Jun 98, and an unfavorable information file was established on 22 Jun 98.

b. The Respondent did, between on or about 19 Jun 98 and on or about 20 Jun 98, unlawfully possess alcoholic beverages while under the age of twenty-one years, in violation of South Carolina Code Annotated Section 20-7-370, as made applicable to military members pursuant to the Federal Assimilative Crimes Act, Title 18 United States Code, Section 13. For this misconduct, she received an Article 15 nonjudicial punishment, dated 1 Jul 98. Punishment consisted of reduction to the grade of airman basic, 45 days extra duty, and a reprimand.

c. On or about 1 Jul 99 and 2 Jul 99, the Respondent failed to turn in her off-duty pass as instructed. For this, she was verbally counseled. In addition, on or about 3 Jul 99, the Respondent failed to obey a direct order given to her by a noncommissioned officer not to leave the deployed location for an overnight stay without proper coordination. For this misconduct, she received a letter of counseling (LOC), dated 6 Jul 99.

d. The Respondent did, on or about 23 Aug 99, unlawfully possess beer while under the age of twenty-one years, in violation of South Carolina Code Annotated Section 20-7-8920, as made applicable to military members pursuant to the Federal Assimilative Crimes Act, Title 18 United States Code, Section 13. For this misconduct, she received an Article 15 nonjudicial punishment, dated 20 Sep 99. Punishment consisted of reduction to the grade of airman basic, 45 days restriction, 45 days extra duty, and a reprimand.

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3. Respondent's Submission: The respondent consulted with military counsel and submitted a written statement for your consideration, which is attached at Tab 4. The Respondent does not challenge the discharge, but requests that she be given an honorable service characterization instead of a general discharge.

4. Errors and Irregularities: This file contains no errors or irregularities.

5. Conclusions and Recommendations:

a. Subject to inclusion of the report of physical examination, this file is legally sufficient to support a discharge, pursuant to AFD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.50.2.

b. The respondent could receive either an honorable or a general discharge. The unit commander recommends that the respondent receive a general discharge. I concur with this recommendation. A general service characterization is appropriate when the negative aspects of a member's service outweigh the positive. In this case, the respondent's refusal to comply with Air Force standards has resulted in two Article 15 actions, a letter of reprimand, a letter of counseling, and an unfavorable information file. This type of misconduct constitutes a significant deviation from the expected standards. The Respondent's misconduct has disrupted good order and discipline within the unit. The negative aspects of the Respondent's overall service clearly outweigh the positive aspects of his records. A general service characterization is most appropriate.

c. The commander does not recommend probation and rehabilitation (P & R). I concur. Pursuant to AFI 36-3208, paragraph 7.3, P & R may be offered where there seems to be a reasonable expectation of rehabilitation. P & R may be offered to those airmen who have demonstrated a potential to serve satisfactorily, who have the capacity to be rehabilitated for continued service, or whose retention is consistent with the Air Force's interest of maintaining good order and discipline. The respondent has failed to demonstrate that she has the capacity or the will to serve satisfactorily. Further rehabilitative efforts would be wasted on her.

d. As the Special Court-Martial Convening Authority in this case, you have the following options:

(1) Retain the Respondent in the Air Force;

(2) Direct the Respondent be discharged with a general discharge, with or without probation and rehabilitation;

(3) Recommend the Respondent be separated with an honorable discharge, with or without probation and rehabilitation, and forward this case to the General Court-Martial Convening Authority (9 AF/CC) for his action; or,

(4) Direct this case be reinitiated pursuant to the board hearing procedures of AFI 36-3208, chapter 6, section C, if you feel a discharge under other than honorable conditions is warranted.

6. Recommendations: I recommend you separate the Respondent with a general discharge, without probation and rehabilitation.

A large, dark, irregular blacked-out area that completely obscures the signature of the Deputy Staff Judge Advocate.

Deputy Staff Judge Advocate

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE
20TH FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

FD2002-0150

7 Oct 99

MEMORANDUM FOR [REDACTED]

FROM: 77 FS/CC
750 Fighting Falcon Street
Shaw AFB SC 29152-5045

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct – conduct prejudicial to good order and discipline. The authority for this action is AFD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.
2. My reasons for this action are:
 - a. On or about 17 Jun 98, you were apprehended by Shaw Security Forces personnel for alcohol consumption by a minor. For this misconduct, you received a letter of reprimand (LOR), dated 18 Jun 98, and an unfavorable information file was established on 22 Jun 98.
 - b. You did, between on or about 19 Jun 98 and on or about 20 Jun 98, unlawfully possess alcoholic beverages while under the age of twenty-one years, in violation of South Carolina Code Annotated Section 20-7-370, as made applicable to military members pursuant to the Federal Assimilative Crimes Act, Title 18 United States Code, Section 13. For this misconduct, you received an Article 15 nonjudicial punishment, dated 1 Jul 98. Punishment consisted of reduction to the grade of airman basic, 45 days extra duty, and a reprimand.
 - c. On or about 1 Jul 99 and 2 Jul 99, you failed to turn in your off-duty pass as instructed. For this, you were verbally counseled. In addition, on or about 3 Jul 99, you failed to obey a direct order given to you by a Noncommissioned officer not to leave the deployed location for an overnight stay without proper coordination. For this misconduct, you received a letter of counseling (LOC), dated 6 Jul 99.
 - d. You did, on or about 23 Aug 99, unlawfully possess beer while under the age of twenty-one years, in violation of South Carolina Code Annotated Section 20-7-8920, as made applicable to military members pursuant to the Federal Assimilative Crimes Act, Title 18 United States Code, Section 13. For this misconduct, you received an Article 15 nonjudicial punishment, dated 20 Sep 99. Punishment consisted of reduction to the grade of airman basic, 45 days restriction, 45 days extra duty, and a reprimand.
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

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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 [REDACTED] Area Defense Counsel, 895-9530, on 8 Oct 99 at 1230 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 within three duty days after receipt of this notification memorandum, 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 must report, in uniform, to the Shaw AFB Hospital, Physical Examinations Section, on 12 Oct 99 at 1300 hours, for a medical 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. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge, if the reason is not homosexual conduct. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

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

[REDACTED]
[REDACTED] Lt Col, USAF
Commander

Attachments:

1. LOR, 18 Jun 98
2. AF Form 1058, 22 Jun 98
3. AF Form 3070, 1 Jul 98
4. LOC, 6 Jul 99
5. AF Form 3070, 20 Sep 99
6. Airman's Receipt of Acknowledgement of Receipt