

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
[REDACTED]	AMN	[REDACTED]

TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

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

ISSUES A94.53	INDEX NUMBER A67.90	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 03-01-10	CASE NUMBER FD2002-0237			

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 Washington, D.C.

Advise applicant of the decision of the Board and the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
[REDACTED]	[REDACTED]

INDORSEMENT	DATE: 03-01-10
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

FD2002-0237

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for his discharge, and to change his reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board 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, change of reason and authority for discharge, and change of reenlistment code are denied.

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

Issues. Applicant was discharged for a pattern of misconduct, conduct prejudicial to good order and discipline. He had four Records of Individual Counseling, two Letters of Reprimand (LOR), an Article 15, an Unfavorable Information File, a referral Enlisted Performance Report rated an overall "2," and was placed on the Control Roster. His misconduct included four instances of failure to go, and three instances of financial irresponsibility, and lying to his commander, all in a 12-month period of time. At the time of the discharge, applicant waived his right to submit statements on his own behalf, after consulting counsel. Member was sent to the Personal Financial Management Program twice, but was not however motivated enough to conform to standards and his misconduct continued. The Board also noted that when his misconduct occurred, member was the same age as other airmen who had adhered to the standards. He was counseled in an effort to help him correct his deficiencies and had many opportunities to improve his behavior. He failed to respond to those rehabilitative efforts, so he was held accountable for his actions. No inequity or impropriety was found in this discharge in the course of the records review.

Applicant cited his desire to return to military service as justification for an upgrade. While the Board commends applicant on this desire to return to military service, and is sympathetic to the impact a General discharge has on his reenlistment code, this is not a matter of equity or propriety that warrants an upgrade.

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.

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 discharge should not be changed.

Attachment:

Examiner's Brief

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

(Former AMN) (HGH AIC)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 96/03/27 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, to Change the Reason and Authority for Discharge, and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 75/01/10. Enlmt Age: 19 4/12. Disch Age: 21 2/12. Educ: HS DIPL. AFQT: N/A. A-74, E-85, G-70, M-76. PAFSC: 2A631D - F-100 Jet Engine Apprentice. DAS: 94/12/05.

b. Prior Sv: (1) AFRes 94/05/31 - 94/06/16 (16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 94/06/17 for 4 yrs. Svd: 01 Yr 09 Mos 11 Das, all AMS.

b. Grade Status: AMN - 96/03/01 (Article 15, 96/03/01)
AIC - 95/10/17
AMN - 94/12/17

c. Time Lost: None.

d. Art 15's: (1) 96/03/01, Kadena AB, Japan - Article 86. You did, on or about 20 Feb 96, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Amn. Suspended forfeiture of \$200.00 pay per month for two months, and 21 days extra duty.
(No appeal) (No mitigation)

e. Additional: RIC, 14 FEB 96 - Failure to go.
LOR, 22 JAN 96 - Financial irresponsibility.
LOR, 21 OCT 95 - Financial irresponsibility.
RIC, 01 JUN 95 - Financial irresponsibility, and not telling the truth to the Commander.
RIC, 16 MAR 95 - Missed appointment.
RIC, 16 FEB 95 - Late for work.

f. CM: None.

g. Record of SV: 94/06/17 - 96/02/16 Kadena AB 2 (Initial)REF

(Discharged from Keesler AFB)



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

11 Mar 96

MEMORANDUM FOR 18 WG/CC

FROM: 18 WG/JA
Unit 5141, Box 40
APO AP 96368-5141

SUBJECT: Legal Review - Administrative Discharge - [REDACTED]
[REDACTED] (PACAF), Kadena AB, Japan

1. BASIS: [REDACTED] has initiated this administrative discharge action against [REDACTED] for a Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. The initiating commander has recommended a general discharge without probation and rehabilitation.

2. GOVERNMENT'S EVIDENCE:

a. On or about 16 Feb 95, [REDACTED] failed to go to at the time prescribed to his appointed place of duty. As a result, he was counseled on 16 Feb 95 (Tab 1-1).

b. On or about 15 Mar 95, [REDACTED] failed to go to a scheduled appointment. As a result, he was counseled on 16 Mar 95 (Tab 1-2).

c. On or about 22 May 95, [REDACTED] failed to meet his just financial obligations in a proper and timely manner by becoming delinquent on his phone bill totaling \$799.00. He also uttered checks totaling \$90.00 to the Kadena bowling alley, which were returned due to insufficient funds. As a result, he was counseled on 2 Jun 95 (Tab 1-3).

d. On or about 21 Oct 95, [REDACTED] failed to meet his just financial obligations in a proper and timely manner by failing to pay his roommate \$600.00 for a phone bill he owed. As a result, he received a Letter of Reprimand and was mandatorily enrolled into the Personnel Financial Management Program on 21 Oct 95 (Tab 1-4).

e. On or about 18 Jan 96, [REDACTED] failed to meet his just financial obligations by taking advances against his pay and then withdrawing additional funds to which he was not entitled. As a result, he received a Letter of Reprimand and placement on the Control Roster on 22 Jan 96 (Tab 1-5).

f. On or about 14 Feb 96, [REDACTED] failed to go at the time prescribed to his appointed place of duty. As a result, he was counseled on 14 Feb 96 (Tab 1-6).

g. On or about 20 Feb 96, [REDACTED] failed to go at the time prescribed to his appointed place of duty. As a result, he was punished under Article 15 on 1 Mar 96. Punishment consisted of reduction to the grade of Amn with a new date of rank of 1 Mar 96, forfeiture of \$200.00 pay per month for two months, suspended until 31 Aug 96, and 21 days extra duty (Tab 1-7).

3. RESPONDENT'S EVIDENCE:

a. The respondent, a 21-year old airman, originally enlisted on 17 Jun 94. His AQE scores are A-74, E-85, G-70, and M-76. This airman has received one evaluation report. His most recent EPR, which closed out on 16 Feb 96, rated him an overall 2. The airman is entitled to wear the medals, awards and ribbons outlined in the commander's recommendation.

b. The respondent consulted military defense counsel but has not submitted a statement in response to this discharge action.

4. ERRORS OR IRREGULARITIES: None noted.

5. DISCUSSION:

a. AFI 36-3208, paragraph 5.50.2, authorizes separation of airmen who engage in a pattern of misconduct. [REDACTED] actions have resulted in one Article 15 for failing to go, two Letters of Reprimand, both for failing to meet financial obligations, and placement on the Control Roster. Additionally, [REDACTED] received four counselings, three for failing to go and one for failing to meet financial obligations, and mandatory enrollment in Personnel Financial Management Program. [REDACTED] actions show a serious disregard for Air Force standards of conduct. These documented instances satisfy the requirements of the regulation and justify discharge.

b. Characterization of service as general is appropriate when significant negative aspects of an airman's conduct outweigh positive aspects of his or her military record. [REDACTED] continual misconduct outweighs the positive aspects of his record. Therefore, characterization of [REDACTED] service as general is appropriate.

c. I concur with 18 MXS/CC that probation and rehabilitation is not appropriate for this airman. The squadron gave [REDACTED] ample opportunity to rehabilitate himself. Despite these efforts, [REDACTED] received an Article 15. There is no reason to believe that further rehabilitative efforts would be successful.

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

- a. Retain [REDACTED], if you consider discharge unwarranted;
- b. Direct a general discharge with or without probation and rehabilitation; or
- c. Recommend that 5 AF/CC direct an honorable discharge with or without probation and rehabilitation.

7. RECOMMENDATION:

I recommend you direct a general discharge without probation and rehabilitation by signing the attached letter.

This legal opinion is a privileged document and is provided for command use only. It should not be released to the public in general or to the subject for this review in particular.

[REDACTED]

USAF
Staff Judge Advocate, 18th Wing

Attachments:

1. Discharge Letter
2. Case File

MEMORANDUM FOR [REDACTED]

08 MAR 1996

FROM: 18 MXS/CC
Unit 5183
APO AP 96368-5183

SUBJECT: Notification Letter

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 AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. 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, specifically:

a. On or about 16 Feb 95, you failed to go to at the time prescribed to your appointed place of duty. As a result, you were counseled on 16 Feb 95 (Tab 1-1).

b. On or about 15 Mar 95, you failed to go to a scheduled appointment. As a result, you were counseled on 16 Mar 95 (Tab 1-2).

c. On or about 22 May 95, you failed to meet your just financial obligations in a proper and timely manner by becoming delinquent on your phone bill totaling \$799.00. You also uttered checks totaling \$90.00 to the Kadena bowling alley, which were returned due to insufficient funds. As a result, you were counseled on 2 Jun 95 (Tab 1-3).

d. On or about 21 Oct 95, you failed to meet your just financial obligations in a proper and timely manner by failing to pay your roommate \$600.00 for a phone bill you owed. As a result, you received a Letter of Reprimand and a mandatory enrollment into the Personnel Financial Management Program on 21 Oct 95 (Tab 1-4).

e. On or about 18 Jan 96, you failed to meet your just financial obligations by taking advances against your pay and then withdrawing additional funds which you were not entitled to. As a result, you received a Letter of Reprimand and placement on the Control Roster on 22 Jan 96 (Tab 1-5).

f. On or about 14 Feb 96, you failed to go at the time prescribed to your appointed place of duty. As a result, you were counseled on 14 Feb 96 (Tab 1-6).

g. On or about 20 Feb 96, you failed to go at the time prescribed to your appointed place of duty. As a result, you were punished under Article 15 on 1 Mar 96. Punishment consisted of reduction to the grade of Amn with a new date of rank of 1 Mar 96, forfeiture of \$200.00 pay per month for two months, suspended until 31 Aug 96, and 21 days extra duty (Tab 1-7).

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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 service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

3. 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] at the Area Defense Counsel at Building 1460 on 8 MAR at 0930 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 13 MAR 96 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination on 11 MAR at 0700 at the Physical Exams Section, 18th Medical Group, Kadena AB, Japan.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974. A copy of AFI 36-3208, is available for your use at the Area Defense Counsel office.

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

[REDACTED]
USAF
Commander, 18th Maintenance Squadron

Attachments:

1. 16 Feb 95, counseling;
16 Mar 95, counseling;
2 Jun 95, counseling;
21 Oct 95, LOR/PFMP;
22 Jan 96, LOC/UIF/CR;
14 Feb 96, counseling;
1 Mar 96, Art 15
2. Airman's Receipt of
Notification Letter
3. EPRs