

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

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|----------------|--|---|
| TYPE | <input checked="" type="checkbox"/> PERSONAL APPEARANCE | RECORD REVIEW |
| COUNSEL | | ADDRESS AND OR ORGANIZATION OF COUNSEL |
| YES | NO | |
| | <input checked="" type="checkbox"/> | |

| MEMBERS SITTING | VOTE OF THE BOARD | | | | |
|-----------------|-------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| [REDACTED] | | | | X*+ | |
| [REDACTED] | | | | X*+ | |
| [REDACTED] | | | | X*+ | |
| [REDACTED] | | | | X*+ | |
| [REDACTED] | | | | X*+ | |

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| ISSUES A94.06 | INDEX NUMBER A49.00 | EXHIBITS SUBMITTED TO THE BOARD | | |
| | | 1 | ORDER APPOINTING THE BOARD | |
| | | 2 | APPLICATION FOR REVIEW OF DISCHARGE | |
| | | 3 | LETTER OF NOTIFICATION | |
| HEARING DATE 2 JUN 03 | CASE NUMBER FD2002-0279 | 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.

* Change reason and authority for the discharge to Secretarial Authority.
 + Change the relinishment (RE) code to 3K

Advise applicant of the decision of the Board.

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| SIGNATURE OF RECORDER [REDACTED] | SIGNATURE OF BOARD PRESIDENT [REDACTED] |
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| INDORSEMENT | DATE: 2 JUN 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

FD2002-0279

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

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.

Exhibit 6: Letter of Appreciation from The Gordon Regional Security Operations Center, March 3, 2000

Exhibit 7: Certificate of Achievement in support of the Better Opportunities for Single Servicemembers, December 31, 99

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

FINDINGS: The reason and authority for the discharge is changed to secretarial authority, and a change to his reenlistment code is approved.

ISSUES: The applicant was discharged with a Honorable Discharge for unsatisfactory performance. Member received an Article 15 for underage drinking and received two Memorandums For 543 IG/CC for CDC failure, two Memorandums For Record for failure to progress in training as well as unsatisfactory progress in the weight management program and returned check due to insufficient funds and one Letter of Reprimand for unsatisfactory progress in the weight management program. Additionally, he also received two Letters of Counseling for unsatisfactory progress in the weight management program and failure to perform remedial language training. Applicant claims his commander did not consider his actual job performance but only his failed CDC test scores. He also states he did not receive a tutor or supervised study as directed by his commander and he was not able to promptly re-test.

The DRB concluded the applicant did not have the opportunity to utilize a tutor or participate in supervised study and the applicant was not permitted to re-test within a reasonable amount of time from the initial failure. Additionally, the commander might not have been aware of the applicant's duty performance because he was assigned to a joint environment and those who were knowledgeable and benefited from his duty performance were not in his Air Force chain of command. Lastly, the applicant was experiencing a medical problem and personal stressors that made it difficult for him to maintain appropriate weight standards and complete the required number of hours of foreign language proficiency training.

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.

However, in view of the forgoing findings, the board further concludes that the overall Reason for discharge is more accurately reflected as Secretarial Authority. The applicant's reason for discharge should be changed to Secretarial Authority, under the provisions of Title 10, USC 1533. Additionally, the Discharge Review Board determined the applicant's reenlistment (RE) code will be changed to 3K.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a HON Disch fr USAF 02/04/11 UP AFI 36-3208, para 5.26.3 (Unsatisfactory Performance). Appeals for a Change in Reason and Authority for Discharge and to Change the Separation Code (SPD).

2. **BACKGROUND:**

a. DOB: 79/09/19. Enlmt Age: 17 4/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-56, E-72, G-70, M-81. PAFSC: 1N335D - Middle East Crypto Linguist. DAS: 99/04/11.

b. Prior Sv: (1) AFRes 97/02/11 - 97/06/24 (4 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 97/06/25 for 6 yrs. Svd: 04 Yrs 09 Mos 17 Das, all AMS.

b. Grade Status: SRA - 99/12/09.
A1C - 97/08/09.

c. Time Lost: None.

d. Art 15's: (1) 99/01/28, Goodfellow AFB, TX - Article 92. You, who knew or should have known of your duties, were, on or about 9 Jan 99, derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol underage, as it was your duty to do, in violation of the Phase Program. Thirty days correctional custody (Correctional Custody in excess of 28 days remitted). (No appeal) (No mitigation)

e. Additional: Memorandum For 543 IG/CC, 16 MAR 01 - CDC failure.
Memorandum For 543 IG/CC, 14 NOV 01 - Second CDC failure.
MFR, 09 JAN 01 - Failure to progress in training and Unsatisfactory progress in the Weight Management Program.
LOC, 01 JUN 01 - Failure to perform remedial language Training.
LOC, 01 MAY 01 - Unsatisfactory progress in the Weight Management Program.
LOR, 22 OCT 01 - Unsatisfactory progress in the Weight Management Program.
MFR, 17 MAY 99 - Returned check due to insufficient funds.

f. CM: None.

g. Record of SV: 97/06/25 - 99/10/13 Fort Gordon AIN 5 (Initial)
 99/10/14 - 00/10/13 Fort Gordon AIN 4 (Annual)
 00/10/14 - 01/10/13 Fort Gordon AIN 3 (Annual) REF

(Discharged from Shaw AFB)

h. Awards & Decs: AFTR, AFLSAR W/1 OLC, AFGCM.

i. Stmt of Sv: TMS: (05) Yrs (02) Mos (01) Das
 TAMS: (04) Yrs (09) Mos (17) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/06/29.

(Change Discharge to Reason and Authority for Discharge and Separation code (SPD))

Issue 1: I understand that I failed to pass my career development course (CDC), however the separation code on my DD 214 is JHJ, Unsatisfactory Job Performance, which I feel misrepresents why I was separated. My commander Lt. Col ----- did not take into account my actual job performance, but only test scores. It appears to me that I was unfairly separated. I would at least like my separation code changed to a code that better represents the reason for my separation. You will see in the two documents that I have attached, the unit 31st IS, had not followed through on their part of the CDC also.

ATCH

1. DD Form 214.
2. Notification Memorandum, 25 Mar 02.
3. Response to Notification of Administrative Separation.
4. Receipt of Notification Memorandum, 25 Mar 02.
5. Memorandum To 543 IG/CC, 16 Mar 01.
6. Memorandum To 543 IG/CC, 14 Nov 01.

02/10/09/ia



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

4 APR 2002

MEMORANDUM FOR 20 FW/CC

FROM: 20 FW/JA

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

1. Basis for Action: The Commander, 31st Intelligence Squadron, has recommended SrA [REDACTED] be separated from the service with an honorable discharge for failure to progress in on-the-job training (OJT), under the provisions of AFI 36-3208, chapter 5, section E, paragraph 5.26.3. The Respondent is being processed according to the notification procedure.

2. Facts: The file reflects the following as reasons for discharge:

a. On or about 12 Mar 01, the Respondent failed to pass his first Career Development Course (CDC) end-of-course examination. The minimum passing score was 65. He scored 63, as evidenced by the commander's evaluation memorandum, dated 16 Mar 01.

b. On or about 29 Oct 01, the Respondent failed to pass his second CDC end-of-course examination. The minimum passing score was 65. He scored 54, as evidenced by the commander's evaluation memorandum, dated 14 Nov 01.

The documents listed above are attached at Tab 4.

3. In addition to the above reasons, the Respondent's file also reflects two memoranda for record (MFR), dated 9 Jan 02 and 17 May 99, which document his failure to progress in on-the-job training and other circumstances that led to the initiation of this discharge, as well as his failure to maintain sufficient funds in his account to cover a check he wrote to the Army and Air Force Exchange Service (AAFES). Two letters of counseling (LOC), dated 1 Jun 01 and 1 May 01, document both an unsatisfactory weigh-in on the Weight and body Fat Management Program (WBFMP) and a failure to complete the required number of hours of remedial language training. A letter of reprimand (LOR), dated 22 Oct 01, documents his second unsatisfactory weigh-in on the WBFMP. These documents are attached at Tab 4a.

4. Respondent's Submission: After consulting with counsel, the Respondent elected to submit matters for your consideration.

a. In a two-page letter, the Respondent states he cannot cite any extraneous circumstances that would have caused him to fail his CDCs. He feels, however, he has put forth his best efforts in attempting to pass them. He further states he had difficulty understanding some of the material because it is very broad in nature. After his first CDC failure with a score of 63, he states he was supposed to be assigned a tutor and supervised study was to be conducted. The Respondent states this never occurred, and he feels, if it had, his chances of passing his second CDC examination would have greatly increased. Moreover, he feels the length of time it took the unit to get him reactivated into the CDC course (i.e., four months) contributed to his becoming less familiar with the material. He states he did study regularly, but, when the time came to test a second time, he was extremely

nervous because he knew how important it was to his career. He again was informed he failed his second test with a score of 54.

b. Second, the Respondent states he inquired about retraining but was unable to do so because of being in Phase 1 of the Weight and Body Fat Management Program (WBFMP). He also states he was given no reason for not being able to retrain besides being told "he cannot" be retrained. He states he was then told to begin out-processing even though a definite date for separation had not been set.

c. Third, the Respondent states he fully understands he has a responsibility to make every effort to study and pass his CDCs and feels he gave it his best but was still unable to pass. He feels some contributing factors to his failures were not being assigned a tutor and supervised study time and the four-month disenrollment period. He feels, even in this AFSC with the proper guidance, he could succeed. He states if he is given the opportunity to retrain into another AFSC, he could do much better on the CDCs than he has on his current CDCs.

d. Fourth, the Respondent states he joined the military shortly after graduating high school, because it was all he ever wanted to do. He says he can remember wanting to join the Air Force since he was five years old. He further states he had initially joined to be a loadmaster, so he would have ample opportunity to go TDY and see the world. Though he did not get that job, he has greatly enjoyed the opportunity of being a linguist. He feels he should not be put out of the Air Force, because he was not able to pass his CDCs. Rather, he should be allowed to retrain into another AFSC. He further states he has enjoyed serving at Fort Gordon, GA, for the past 2 years and 11 months. He also states while being stationed there, he has had the chance to participate in a number of military activities and had the opportunity to work with some of the best and brightest people he has ever met. He feels the most important award he ever received is the Commander's Coin from the GRSOC commander for his job performance. He states, since he received the coin, he finds himself feeling more proud of the job he does.

e. Finally, the Respondent asks to be retrained rather than separated. He feels retraining would be beneficial to the Air Force and himself. He also asks, if you choose to separate him, that he receive an honorable discharge, because he feels his service has been "good at a minimum" and is deserving of an honorable characterization. The Respondent's submissions are attached at Tab 7.

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

6. Conclusions:

a. Pending receipt of the medical examination, this file is legally sufficient to support a discharge, pursuant to AFI 36-3208, chapter 5, section E, paragraph 5.26.3. The Respondent's two CDC failures provide a valid basis to discharge him for failure to progress in OJT.

b. In this case, the Respondent's commander has recommended he receive an honorable discharge. I concur with this recommendation. An honorable discharge is appropriate when the quality of an airman's service has generally met Air Force standards of conduct and duty performance or when the member's service is otherwise so meritorious that any other characterization would be inappropriate. The sole basis for this discharge is failure to progress in OJT. Other than failing two exams, the Respondent has met Air Force standards of conduct and duty performance. Therefore, an honorable service characterization is appropriate.

c. The commander does not recommend Probation and Rehabilitation (P&R). I concur. Paragraph 7.3 of AFI 36-3208 states P&R should only be extended in those cases where an airman has demonstrated potential to serve satisfactorily. The Respondent's repeated CDC failures indicate a lack of such potential. Therefore, he is not a suitable candidate for P&R.

7. Options: As the Special Court-Martial Convening Authority in this case, you may:

a. Retain the Respondent in the Air Force; or

b. Direct the Respondent be discharged with an honorable or a general discharge, with or without P&R.

8. Recommendation: I recommend you discharge the Respondent with an honorable discharge, without P&R.


Staff Judge Advocate

Li Col, USA

Attachment:
Case File



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

FD 2002-0275

MEMORANDUM FOR SRA [REDACTED]

25 Mar 02

FROM: 31 IS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for unsatisfactory performance – failure to progress in on-the-job training (OJT). The authority for this action is AFPD 36-32 *Military Retirements and Separation* and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, section E, paragraph 5.26.3. If my recommendation is approved, your service will be characterized as general or honorable. I am recommending that your service be characterized as honorable.

2. My reasons for this action are:

a. On or about 12 Mar 01, you failed to pass your first Career Development Course (CDC) end-of-course examination. The minimum passing score was 65. You scored 63, as evidenced by the commander's evaluation memorandum, dated 16 Mar 01.

b. On or about 29 Oct 01, you failed to pass your second CDC end-of-course examination. The minimum passing score was 65. You scored 54, as evidenced by the commander's evaluation memorandum, dated 14 Nov 01.

The documents listed above are attached at Tab 4.

3. In addition to the above reasons, your file also reflects two memoranda for record (MFR), dated 9 Jan 02 and 17 May 99, which document your failure to progress in on-the-job training and other circumstances which led to the initiation of this discharge, as well as your failure to maintain sufficient funds in your account to cover a check you wrote to the Army and Air Force Exchange Service (AAFES). Two letters of counseling (LOC), dated 1 Jun 01 and 1 May 01 document both an unsatisfactory weigh-in on the Weight and body Fat Management Program (WBFMP) and a failure to complete the required number of hours of remedial language training. A letter of reprimand (LOR), dated 22 Oct 01, documents your second unsatisfactory weigh-in on the WBFMP. These documents are attached at Tab 4a.

4. 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 service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

5. 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 Capt. [REDACTED] Area Defense Counsel, at 895-9530, on ____ Mar 02, at ____ hours. You may consult civilian counsel at your own expense.

6. 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 the notification memorandum unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

Global Power For America

8. You must report to the Shaw AFB Hospital, Physical Examinations Section, ^{at} ~~between the hours of~~ ¹¹⁰⁰ - 1300, Mon - Thurs, for a medical examination.

9. 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.

10. 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. 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.

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


Lt Col, USAF
Commander

6 Attachments:

1. Commander's Evaluation, 16 Mar 01 (Tab 4)
2. Commander's Evaluation, 14 Nov 01 w/Atchs (Tab 4)
3. AF Form 393, 16 Mar 01 (Tab 4a)
4. LOC, 1 May 01 (Tab 4a)
5. LOR, 22 Oct 01 (Tab 4a)
6. Respondent's Receipt of Notification (Tab 5)