

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]				
TYPE	<input checked="" type="checkbox"/> PERSONAL APPEARANCE		RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO	[REDACTED]		AMERICAN LEGION			
	<input checked="" type="checkbox"/>						
MEMBERS SITTING			VOTE OF THE BOARD				
[REDACTED]			HON	GEN	UOTHC	OTHER	DENY
				<input checked="" type="checkbox"/>			
				<input checked="" type="checkbox"/>			
				<input checked="" type="checkbox"/>			
				<input checked="" type="checkbox"/>			
ISSUES A94.06		INDEX NUMBER A67.90		EXHIBITS SUBMITTED TO THE BOARD			
HEARING DATE 30 Jan 03		CASE NUMBER FD2002-0289		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 Washington, D.C. Advise applicant of the decision of the Board.							
SIGNATURE OF RECORDER [REDACTED]			SIGNATURE OF BOARD PRESIDENT [REDACTED]				
INDORSEMENT					DATE: 30 Jan 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

FD02-0289

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, MD on January 30, 2003. Ms CN, the applicant's mother also testified on the applicant's behalf.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions

Exhibit 6: Character Letters from applicant's nursing school

Exhibit 7: College transcript

Exhibit 8: Copy of AFI 36-3208

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

FINDINGS: Upgrade of discharge to Honorable is denied. However, the Board grants an upgrade of discharge to General.

The board finds that neither evidence of record nor that provided by the applicant substantiates an impropriety, which would justify a change of discharge. However, after a thorough review of the record, the Board finds that the applicant's character of discharge is inequitable.

ISSUE: The applicant states that her discharge was inequitable because under today's standards, she would not have received an UOTHC discharge. She quoted AFI 36-3208, paragraph 1.21.3, which states that a discharge UOTHC should not ensue if the sole basis for discharge is a serious offense that resulted in conviction by a court-martial that did not adjudge a punitive discharge unless such characterization is approved by the Secretary of the Air Force. The records indicate the applicant was found guilty by a Special Court Martial for Fraud. She also received an Article 15 for theft from the Exchange. After a thorough and complete consideration of the information submitted by the applicant, the applicant's compelling personal testimony, and information contained in the record, the Board concluded there was sufficient mitigation and extenuation to substantiate upgrade of the discharge. While the DRB did not condone the applicant's theft and forgery charges, they did feel it would have been more equitable to give her a General discharge.

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 foregoing findings the Board also concludes that the overall quality of the applicant's service is more accurately reflected by a General discharge. Therefore, the applicant's characterization for discharge should be changed to General.

Attachment:

Examiner's Brief

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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAF 94/02/10 UP AFR 39-10, para 5-47b (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 70/11/13. Enlmt Age: 19 7/12. Disch Age: 23 2/12. Educ: HS DIPL. AFQT: N/A. A-63, E-61, G-50, M-65. PAFSC: 2W051 - Munitions System Journeyman. DAS: 92/07/02.

b. Prior Sv: (1) AFRes 90/06/18 - 91/03/10 (8 Mos 23 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 91/03/11 for 4 yrs. Ext: 92/04/23 for 9 Mos. Svd: 2 Yrs 11 Mos 0 Das, of which AMS is 2 Yrs 8 Mos 16 Das (Ex: 2 Mos 14 Das lost time).

b. Grade Status: AB - 93/08/09 (SPC, 93/08/09)

c. Time Lost: 8 Jun 93 - 20 Aug 93 (74 Days)

d. Art 15's: (1) 91/10/16, Davis Monthan AFB, AZ - Article 121. You did, on or about 6 Oct 91, steal miscellaneous cosmetic items, of a value of about \$51.20, the property of the ----- . Suspended reduction to AB, forfeiture of \$50.00 pay per month for 2 months, and 21 days extra duty.

(No appeal) (No mitigation)

e. Additional: RIC, 22 OCT 91 - Departed work area without permission.
RIC, 22 OCT 92 - Failure to wear seatbelts while operating a govt vehicle.

RIC, 19 OCT 92 - Failure to go.

Verbal Counseling - Failure to stop at posted stop sign.

f. CM: Special Court Martial No. 3 - 1993 August 9

CHARGE: Article 123. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Tucson, Arizona, between 23 Aug 92 and 30 Sep 92, with intent to defraud, falsely make the signature of -----, to a ----- credit card receipt, which said receipt would, if genuine, apparently operate to the legal harm of ----- in that her account was charged \$507.00.

Sentence approved on 8 Jun 93: Reduction to the grade of AB, 3 months confinement, and forfeiture of \$542.00 pay per month for 3 months.

g. Record of SV: 91/03/11 - 92/11/10 Davis Monthan AFB 3 (Initial)

(Discharged from Davis Monthan AFB)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (3) Yrs (5) Mos (11) Das
TAMS: (2) Yrs (8) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/15.
(Change Discharge to Honorable)

The following issues are the reasons I believe my discharge should be upgraded to Honorable. If you disagree, please explain in detail why you disagree

Issue 1: Under today's (sic) standards, I would not have received the type of discharge I did.

Issue 2: I have been a good citizen since my discharge in February (sic) 1994.

Issue 3: My ability to serve was impaired by my youth and immaturity.

Issue 4: Personal problems impaired my ability to serve.

Issue 5: The punishment I received was too severe compared with today's standards.

Issue 6: My command abused its authority when they decided to send my case to a discharge board for Under Other Than Honorable Discharge and subsequently received said discharge.

Issue 7: If my discharge is upgraded to Honorable, the government will be (sic) benefit by my employment as a Registered Nurse at the Veteran Administration for Health Care.

Issue 8: My current discharge has created a sizeable disadvantage in terms of retirement and benefits from employment.

Issue 9: The discharge I received (sic) was unjust.

ATCH

1. Five Character References.
2. Statement to Air Force Discharge Review Board.
3. College Transcripts.
4. Defense Counsel's Statement.
5. Explanation of Issues.

02/10/08/cr

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 355TH WING (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

19 Jan 1994

MEMORANDUM FOR 355 WG/CC

FROM: 355 WG/JA

SUBJECT: Legal Review of Administrative Discharge:

1. The record in this case is legally sufficient to support an administrative discharge for misconduct, under the provisions of AFR 39-10, paragraph 5-47b, conduct prejudicial to good order and discipline. The respondent has been afforded all rights and privileges in accordance with pertinent laws and regulations.
2. [REDACTED] is 23 years old and her current enlistment began on 11 March 1991 for a period of four (4) years. She has been on continuous active duty since that date. Her only performance report closed out on 10 November 1992, with an overall rating of 3. She has 74 days lost time.
3. The respondent's commander, [REDACTED] 355 EMS/CC, through his acting commander, [REDACTED], initiated the discharge action on 15 October 1993, and recommended an under other than honorable conditions discharge. As evidence for this action, the unit cited the following reasons:
 - a. On 19 October 1992, she was derelict in the performance of her duties by leaving her work center without permission; AF Form 174, Record of Individual Counseling, dated 22 October 1992.
 - b. On 19 October 1992, she was derelict in the performance of her duties by improper use of a seatbelt; AF Form 174, dated 22 October 1992.
 - c. On 16 October 1992, she disobeyed a lawful order from a senior noncommissioned officer; AF Form 174, dated 19 October 1992.
 - d. On 24 September 1992, she was in violation of AFR 125-14, Base Supplement 1, by failing to stop for a posted stop sign; DD Form 1408, Armed Forces Traffic Ticket, dated 24 September 1992, with counseling annotated on 13 October 1992.
 - e. Between on or about 23 August 1992 and 30 September 1992, with intent to defraud, she falsely made the signature of [REDACTED] to a credit card receipt, which receipt would have, if genuine, apparently operate to the legal harm of [REDACTED]

██████████ Special Court-Martial Order #3, dated 9 August 1993 with a reduction in grade to airman basic, forfeiture of \$542.00 pay per month for 6 months, and 6 months confinement.

f. On or about 6 October 1991, she stole miscellaneous cosmetic items from the Davis-Monthan Exchange; Article 15 dated 6 October 1991, with a suspended reduction in grade to airman basic, forfeiture of \$50.00 pay per month for 2 months and 21 days extra duty.

g. On or about 4 and 5 October 1991, she wrote two checks to the Davis-Monthan AFB Exchange and failed to maintain sufficient funds for their payment; AAFES Form 7200-75(M), Dishonored Check Notification, dated 18 and 28 October 1991.

4. The respondent requested a hearing before a board of officers and enlisted members, and on 6 January 1994, a board of officers was convened to hear the case. After considering the evidence from the government and respondent, the board found ██████████ subject to discharge and recommended discharge with an under other than honorable conditions discharge without probation and rehabilitation.

5. The respondent was present during the board hearing. She made a sworn statement, in which she detailed her reasons for entering the Air Force, as well as her duties here at Davis-Monthan Air Force Base. ██████████ went on to explain the circumstances surrounding her bounced checks, shoplifting, and court martial conviction. She also told the members that she recognized the Air Force was looking for quality individuals and that she did not fit that mold. The respondent finally asked the members for a general discharge and discussed the effects that type of discharge would have upon her.

6. The board's findings are supported by the evidence, and their recommendations are both reasonable and consistent with the findings. You may recommend to 12 AF/CC that ██████████ be discharged with one of the following service characterizations: an honorable discharge, a general discharge, or an under other than honorable conditions discharge as recommended by the board. I advise that you recommend to 12 AF/CC that they accept the discharge board's findings and recommendations and separate ██████████ with an under other than honorable conditions discharge, without probation and rehabilitation.

a. An honorable discharge is appropriate when a respondent's record has been so meritorious that any other characterization would clearly be inappropriate, or the quality of her service generally met Air Force standards of acceptable conduct. The respondent's conduct fails to meet either of these criteria.

b. A general discharge is appropriate when service is honest and faithful but significant negative aspects of the respondent's conduct or performance of duty outweigh the positive aspects of the airman's military record. ██████████ conduct is neither honest nor faithful; and the negative aspects clearly outweigh any positive aspects.

c. An under other than honorable conditions discharge is appropriate when the reason for separation is based on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. This discharge is appropriate for [REDACTED]

7. You may recommend to 12 AF/CC that he direct conditional suspension of [REDACTED] discharge pending successful completion of probation and rehabilitation (P&R). P&R is appropriate for members who have demonstrated a potential to serve satisfactorily, have the capacity to be rehabilitated and whose retention on active duty status is consistent with good order and discipline. Neither the respondent's commander nor the discharge board recommended P&R. I, too, do not recommend P&R. The behavior upon which [REDACTED] discharge was based demonstrates that retention, even in P&R status, would not be in the best interest of the Air Force.

8. I advise that you recommend to 12 AF/CC that the respondent be discharged with an under other than honorable conditions discharge and that P&R not be offered.

[REDACTED]

Attachment:

1. Discharge Case

DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS 355TH WING (ACC)
 DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

FROM: 355 EMS/CC

5 October 1993

SUBJ: Notification Letter - Board Hearing

TO: [REDACTED], [REDACTED]

1. I am recommending your discharge from the United States Air Force for misconduct, conduct prejudicial to good order and discipline under the provisions of AFR 39-10 paragraph 5-47b. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On 19 October 1992, she was derelict in the performance of her duties by leaving her work center without permission; AF Form 174, Record of Individual Counseling, dated 22 October 1992.

b. On 19 October 1992, she was derelict in the performance of her duties by leaving by improper use of a seatbelt; AF Form 174 dated 22 October 1992.

c. On 16 October 1992, she disobeyed a lawful order from a senior noncommissioned officer; AF Form 174 dated 19 October 1992.

d. On 24 September 1992, she was in violation of AFR 125-14, Base Supplement 1, by failing to stop for a posted stop sign; DD Form 1408, Armed Forces Traffic Ticket, dated 24 September 1992 with counseling annotated on 13 October 1992.

e. Between on or about 23 August 1992 and 30 September 1992, with intent to defraud, you falsely made the signature of [REDACTED] to a credit card receipt, which receipt would, if genuine apparently operate to the legal harm of [REDACTED], Special Court-Martial Order #3 dated 9 August 1993 with a reduction in grade to airman basic, forfeiture of \$542.00 pay per month for 6 months, and 6 months confinement.

f. On or about 6 October 1991, she stole miscellaneous cosmetic items from the Davis-Monthan Exchange; Article 15 dated 16 October 1991, with a suspended reduction in grade to airman basic, forfeiture of \$50.00 pay per month for 2 months, and 21 days extra duty.

g. On or about 4 and 5 October 1991, she wrote two checks to the Davis-Monthan AFB Exchange and failed to maintain sufficient funds for their payment; AAFES Form 7200-75(M), Dishonored Check Notification, dated 18 and 28 October 1991.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending you receive an under other

than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights, You must consult legal counsel before making a decision to waive any of your rights.

5. Military legal counsel has been made available to assist you. An appointment has been scheduled for you to consult [REDACTED] on 5 October 1993 at 1400. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

6. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in your unit orderly room.

8. If you plan to ship household goods or do a do-it-yourself move and need to ask general questions on the procedures, call Traffic Management Office at extension 4187.

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

[REDACTED]

- 2 Atchs
1. Referenced Supporting Documents
 2. Airman's Receipt of Notification Letter

CORRECTED COPY - DESTROY ALL OTHERS

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 355TH WING (ACC)
Davis-Monthan Air Force Base, Arizona

Special Court-Martial Order
No. 3

9 August 1993

AIRMAN FIRST CLASS [REDACTED] United States Air Force, 355th Equipment Maintenance Squadron, was arraigned at Davis-Monthan Air Force Base, Arizona, on the following offense at a court-martial convened by this headquarters.

CHARGE: Article 123. Plea: G. Finding: G.

Specification : Did, at or near Tucson, Arizona, between 23 Aug 92 and 30 Sep 92, with intent to defraud, falsely make the signature of [REDACTED] to a Montgomery Wards credit card receipt, which said receipt would, if genuine, apparently operate to the legal harm of [REDACTED] in that her account was charged \$507.00. Plea: G. Finding: G.

SENTENCE

Sentence adjudged on ~~6~~8 June 1993: Reduction to the grade of E-1, forfeiture of \$542.00 pay per month for 6 months, and 6 months confinement.

ACTION

In the case of AIRMAN FIRST CLASS [REDACTED] United States Air Force, 355th Equipment Maintenance Squadron, only so much of the sentence as provides for reduction to the grade of Airman Basic, three months confinement and forfeiture of \$542.00 pay per month for three months is approved and will be executed. The Air Force Corrections System is designated for the purpose of confinement, and the confinement will be served therein or elsewhere as the Director, Air Force Corrections, HQAFSPA/SPC, may direct.

UCMJ Article 64(A) has been complied with. The findings and sentence are correct in law and fact.

HEADQUARTERS TWELFTH AIR FORCE
Date: 24 Aug 93

BY: [REDACTED]

SPCMO No. 3

GOVT EX 11 FOR ID
PG OFF 7 ADM 12 REJ

/s/ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DISTRIBUTION:

1 - [REDACTED] Davis-Monthan AFB, AZ
85707-4066

1 - [REDACTED], [REDACTED], Davis-Monthan AFB, AZ
85707-3012 (Pres)

1 - [REDACTED] Western Circuit,
Travis AFB, CA 94535-2162 (MJ)

1 - [REDACTED] Davis-Monthan AFB, AZ
85707-3845 (TC)

1 - [REDACTED], Davis-Monthan AFB, AZ
85707-3845 (ATC)

1 - [REDACTED] Davis-Monthan AFB,
AZ 85707 (ADC)

1 - 355 WG/CC, Davis-Monthan AFB, AZ 85707

1 - 355 EMS/CC, Davis-Monthan AFB, AZ 85707-4066

2 - 355 CPTS/FMFP, Davis-Monthan AFB, AZ 85707-3014

4 - 355 MSS/MSMPP, Davis-Monthan AFB, AZ 85707-3018

1 - 355 WG/JA, Davis-Monthan AFB, AZ 85707-3845

1 - 12 AF/CC, Davis-Monthan AFB, AZ 85707-4250

1 - 12 AF/JA, Davis-Monthan AFB, AZ 85707-4250

10 - HQ AFLSA/JAJM, 172 Luke Ave, Ste 104, Bolling AFB, DC
20332-5113

1 - DFAS-DE/JSSR, 6760 E. Irvington Pl, Denver CO 80279

1 - HQ AFMPC/DPMDOM1A, Randolph AFB, TX 78150-4564

1 - AFISA/INSAC, 1700 Pentagon Air Force, Washington DC
20330-1700