

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE	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 A94.05	INDEX NUMBER A67.10	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	

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, the right to a personal appearance with/without counsel, 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: 14 JAN 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

GENERAL: The applicant appeals for upgrade of discharge to Honorable, and to change his Reason for discharge.

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

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

FINDINGS: Upgrade of discharge is denied.

The board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

ISSUE: Applicant contends that his discharge was improper because it was too harsh. He believes he should have been discharged for lack of progressing in his career field and not for misconduct. The record indicates the applicant received an Article 15 for wrongfully and falsely making a false military identification card for himself and another airman. In addition, the applicant received a Letter of Reprimand, a Letter of Counseling, and two Memorandums for Record for a parking violation, course examination failure, and failure to perform duties. The board concluded the misconduct was a significant departure from the conduct expected of all military members. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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.

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

[REDACTED]

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/06/26 UP AFI 36-3208, para 5.49 and 5.26.3 (Misconduct - Minor Disciplinary Infractions and Failure to Progress in On-The-Job-Training). Appeals for Honorable Discharge and Change to Narrative Reason for Separation.

2. **BACKGROUND:**

a. DOB: 79/08/06. Enlmt Age: 19 6/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-61, E-40, G-32, M-20. PAFSC: 3S031 - Personnel Apprentice. DAS: 99/06/19.

b. Prior Sv: (1) AFRes 99/02/20 - 99/03/16 (25Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 99/03/17 for 4 yrs. Svd: 1 Yr 3 Mos 10 Das, all AMS.

b. Grade Status: AB - 00/05/10 (Article 15, 00/05/10)
AMN - 99/09/17

c. Time Lost: None.

d. Art 15's: (1) 00/05/10, Tinker AFB, OK - Article 134. You, did, between on or about 1 Aug 99 and 31 Aug 99, wrongfully and falsely make Airman ----- a false military identification card. You did, on or about 24 Jan 00, wrongfully possess a military identification card, then well knowing the same to be false. Reduction to the grade of AB, forfeiture of \$230.00 pay, restriction for 14 days, 14 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC, 11 APR 00 - Failure to perform duties.
MEMO, 27 MAR 00 - Course examination failure assessment.
MEMO, 24 JAN 00 - Course examination failure assessment.
LOR, 05 JAN 00 - Parking violation.

f. CM: None.

g. Record of SV: None.

(Discharged from Tinker AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yr (4) Mos (7) Das
TAMS: (1) Yr (3) Mos (10) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/10.
(Change Discharge to Honorable and Change Narrative Reason for Separation)

Issues: I feel I should have been given an Honorable Discharge instead of a General. I also feel my reason of Discharge should be cause (sic) of lack of progressing in my career field, not cause of a misconduct which could have been waived.

ATCH

1. DD Form 149.

02/10/23/cr



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS OKLAHOMA CITY AIR LOGISTICS CENTER (AFMC)
 TINKER AIR FORCE BASE, OKLAHOMA

19 June 2000

MEMORANDUM FOR 72 ABW/CC

FROM: OC ALC/JAG
 7460 Arnold Street, SE Wg
 Tinker AFB, OK 73145-9002

SUBJECT: Legal Review, AFI 36-3208 Discharge - [REDACTED]
 72 MSS

1. I have reviewed the proposed discharge action against [REDACTED] and find it legally sufficient to support the discharge, subject to the file containing a medical examination report indicating the respondent is medically qualified for world-wide duty and separation.

2. Basis of Action: Respondent's commander recommends discharge under AFI 36-3208, paragraph 5.49, Misconduct, and paragraph 5.26.3, Failure to Progress in On-The-Job Training. After consultation with counsel, respondent has submitted a statement on his own behalf, along with character statements from [REDACTED]

[REDACTED] See Tab 2, Atch 3. The commander has reviewed respondent's response and recommends a general discharge.

3. Summary of the Evidence:

a. For the Government:

The reasons for discharge action under the authority of AFI 36-3208, paragraph 5.49, Misconduct, Minor Disciplinary Infractions are:

(1) On 5 Jan 00, respondent's privately owned vehicle was parked in a one hour reserved space much longer than the authorized one hour. This is a violation of Articles 91 and 92, of the UCMJ. As a result, respondent received a Letter of Reprimand, dated 5 Jan 00.

(2) Between on or about 1 Aug 99 and 31 Aug 99, respondent wrongfully and falsely made [REDACTED] a false military identification card. On or about 24 Jan 00,

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respondent wrongfully possessed a military identification card, knowing that the card was false. As a result, respondent received an Article 15, dated 10 May 00. Punishment was reduction to the grade of airman basic, effective 10 May 00, forfeiture of \$230 pay, restriction to Tinker Air Force Base, OK for 14 days, 14 days extra duty, and a reprimand.

(3) On 7 Apr 00, respondent was derelict in the performance of his duties in that he failed to file numerous documents that were on his desk. As a result, respondent received a Record of Individual Counseling, dated 11 Apr 00.

The reasons for discharge action under the authority of AFI 36-3208, paragraph 5.26.3, Unsatisfactory Performance, Failure to Progress in On-The-Job Training are:

(4) On 28 Jul 99, respondent was enrolled in CDC Course #3S051A. This course consisted of 3 volumes of study. He was given duty time to study and he was directed to studying at home. He took a self-test over the course and scored well on that. In fact, respondent did so well on the pre-test that he did not study the CDC as well as he should have for the final test. On 14 Jan 00, respondent was administered the first final testing over the CDC course. Respondent scored 42% on that test. A passing score is 65%. He had failed the first test. Respondent admitted he had not applied himself, as he should have. In an effort to pass the second final testing, respondent was again provided duty time for studying and he also studied an hour and half each day at home. He was given pre-tests and there was a comprehensive review conducted of all the weak areas from the first test. On 17 Mar 00, respondent took the second final testing over CDC Course #3S051A and scored 55%. A passing score is 65%. Respondent had failed the second testing.

b. For the Respondent:

a. In his response, respondent has requested he be retained, or if discharged he requested an honorable characterization. He stated that he understands he has engaged in activities of misconduct that are conducive to administrative discharge action. However, he basis his request on his involvement in worthy activities and his otherwise good military record. He believes his attitude toward the military environment has changed since his taking a couple of hours of school, learned discipline, and learned how to take initiative at work. Respondent admitted that he could have worked harder to pass the CDC test, and that he also knew filing documents were a part of his work responsibilities that he failed to accomplish.

b. Respondent has submitted character statements on his behalf from five military personnel. Each of these personnel has written that even though they may not have known respondent for a long period of time, their observations and/or involvement with him have been

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good. [REDACTED] wrote that she is aware [REDACTED] has made some bad judgments, but believes he now regrets those mistakes.

c. Respondent's Military History:

(1) Respondent is 20 years of age, and has been on active military duty for one year and two months.

(2) Respondent's AQE scores are as follows: Adm - 61, Elec - 40; Gen - 32, Mech - 20.

(3) Respondent has received no enlisted performance reports.

(4) Respondent has had no formal training.

(5) Respondent is entitled to wear the following ribbons, awards, and medals:
AF Training Ribbon.

4. Discussion:

a. By a preponderance of the evidence, the file supports discharge under AFI 36-3208, paragraph 5.49, Misconduct, Minor Disciplinary Infractions, and paragraph 5.26.3, Failure to Progress in On-The-Job Training. Respondent's military record reflects that he has had some significant misconduct in that he made a false identification card for another enlisted member. Respondent also possessed a false military identification card for himself. He also has been derelict in the performance of his duties in that he failed to file some important documents into individual's folders. That failure could have had serious consequences because the official records would not reflect accurate information. Respondent also has failed his CDC Course test on two separate occasions.

b. By his own admittance, respondent acknowledged that he did not apply himself to his CDC tests and consequently failed on two different occasions. He wrongfully made a false military identification card for another military member. He also wrongfully possessed a false military identification card for himself. Respondent's conduct and duty performance did not improve even after he received administrative actions in an effort to bring to his attention that he must conform to the Air Force standards. His conduct and performance are far below that expected of an airman. The commander has recommended administrative separation. We concur.

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5. Characterization:

a. An honorable discharge is the appropriate characterization when the airman's service has generally met Air Force standards of acceptable conduct and performance of duty.

b. Characterization of service as general indicates that significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of the member's record.

c. Characterization of service as under other than honorable conditions indicates the airman's conduct or performance of duty is a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial.

d. In this case, respondent's misconduct and unsatisfactory performance are contrary to Air Force standards of acceptable conduct and performance of duty. The negative aspects of the airman's conduct outweigh the positive aspects of his military record. Respondent has not been offered a hearing before an administrative discharge board. A general discharge is clearly appropriate.

6. Probation and Rehabilitation: Probation and rehabilitation is not warranted in this case. Respondent has been given ample opportunity to rehabilitate himself and has not responded favorably. The criteria established in AFI 36-3208, para 7.3, have not been met.

7. Options of the Separation Authority - 72 ABW/CC:

a. Approve a general discharge for respondent, with or without probation and rehabilitation; or

b. Forward the file to OC-ALC/CC with a recommendation for an honorable discharge for respondent, with or without probation and rehabilitation; or

c. Return the file to the commander to re-initiate as a UOTHC discharge with all the rights associated with an administrative discharge board; or

d. Disapprove the discharge and retain the respondent on active duty.

8. Recommendation: That [REDACTED] be discharged from the United States Air Force under AFI 36-3208, paragraph 5.49, Misconduct, Minor Disciplinary Infractions, and

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paragraph 5.26.3, Unsatisfactory Performance, Failure to Progress in On-The-Job Training, with a general discharge, without probation and rehabilitation. The chief reason for discharge should be Misconduct, Minor Disciplinary Infractions.



Attachments:

1. Proposed Discharge Ltr
2. AFI 36-3208 Discharge Pkg



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 72 AIR BASE WING (AFMC)
TINKER AIR FORCE BASE OKLAHOMA

FD2002-0299

9 June 2000

MEMORANDUM FOR [REDACTED] 72 MSS

FROM: 72 MSS/CC
Tinker AFB OK 73145

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct and Unsatisfactory Performance. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49, Minor Disciplinary Infractions, and paragraph 5.26.3, Failure to Progress in On-The-Job Training. 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 under paragraph 5.49, Misconduct, Minor Disciplinary Infractions, are:

a. On 5 Jan 00, your privately owned vehicle was parked in a one hour reserved space much longer than the authorized one hour. This is a violation of Articles 91 and 92, of the UCMJ. As a result, you received a Letter of Reprimand (LOR), dated 5 Jan 00. See Atch 1.

b. Between on or about 1 Aug 99 and 31 Aug 99, you wrongfully and falsely made [REDACTED] a false military identification card. On or about 24 Jan 00, you wrongfully possessed a military identification card, knowing that the card was false. As a result, you received an Article 15, dated 10 May 00. Punishment was reduction to the grade of airman basic, effective 10 May 00, forfeiture of \$230 pay, restriction to Tinker Air Force Base, OK for 14 days, 14 days extra duty, and a reprimand. See Atch 2.

c. On 7 Apr 00, you were derelict in the performance of your duties in that you failed to file numerous documents that were on your desk. As a result, you received a Record of Individual Counseling (RIC), dated 11 Apr 00. See Atch 3.

My reasons for this action under paragraph 5.26.3, Unsatisfactory Performance, Failure to Progress in On-The-Job Training, are:

d. On 28 Jul 99, you were enrolled in CDC Course 3S051A. This course consisted of 3 volumes of study. You were given duty time to study and you were directed to do studying at home. You took a self-test over the course and scored well on that. In fact you did so well on the pre-test that you did not study the CDC as well as you should have for the final test. On 14 Jan 00, you were administered the first final testing over the CDC course. You scored 42% on

that test. A passing score is 65%. You had failed the first test. See Atch 4. You admitted you had not applied yourself, as you should have. In an effort to pass the second final testing, you were again provided duty time for studying and you also studied an hour and half each day at home. You were given pre-tests and there was a comprehensive review conducted of all the weak areas from the first test. On 17 Mar 00, you took the second final testing over CDC Course #3S051A and scored 55%. A passing score is 65%. You had failed the second final testing. See Atch 5

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.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made arrangements for you to consult Capt: [REDACTED] by telephone at Bldg 452, Tinker AFB OK on 12 June 2000, at 0930 hours. If it is necessary to change this appointment time, call Capt: [REDACTED]'s office at DSN 271-4774. 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 14 June 2000, 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 are scheduled for a medical examination on 13 Jun 00 at 0645 hours, and you should report to the Tinker AFB Hospital, Physical Exam Section, on that date for the examination.
7. 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.
8. Execute the attached acknowledgment and return it to me immediately.

Attachments:

1. LOR, dtd 5 Jan 00
2. Art 15, dtd 10 May 00
3. RIC, dated 11 Apr 00
4. CDC Failure #1
5. CDC Failure #2
- 4 Acknowledgment Ltr