

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE A1C	AFSN/SSAN [REDACTED]				
TYPE GEN	PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO						
	X						
MEMBERS SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
[REDACTED]							X
							X
							X
							X
							X
ISSUES A94.53, A94.05, A01.13		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			
HEARING DATE 03-01-08		CASE NUMBER FD2002-0308		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
				TAPE RECORDING OF PERSONAL APPEARANCE HEARING			

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

DD Form 149 submitted. Advise applicant the case will be forwarded to the AFBCMR for further processing.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT		DATE: 03-01-09
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	

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

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 is denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant was discharged for minor disciplinary infractions. He had an Article 15, four Letters of Reprimand, and two Letters of Counseling. His misconduct included three instances of failure to go, making a false official statement, writing bad checks, and dereliction of duty. At the time of the discharge, member consulted counsel and waived his right to submit a statement in his own behalf. At the time of Article 15, member admitted the dereliction of duty charge, although he denied the false statement, and requested any reductions or forfeitures be suspended, which they were. Member was given several opportunities to correct his behavior but was either unwilling or unable to do so. The Board noted that member was the same age as other airmen who had adhered to the standards when his misconduct occurred, and he knew right from wrong. He was responsible for his actions, and therefore was held accountable for them. No inequity or impropriety was found in this discharge in the course of the records review.

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]
[REDACTED]

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/07/01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 77/09/17. Enlmt Age: 19 8/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-86, E-46, G-44, M-40. PAFSC: 3P031 - Security Apprentice. DAS: 98/04/23.

b. Prior Sv: (1) AFRes 97/05/27 - 97/11/24 (5 months 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 97/11/25 for 4 yrs. Svd: 01 Yrs 07 Mo 07 Das, all AMS.

b. Grade Status: A1C - 98/09/25

c. Time Lost: None.

d. Art 15's: (1) 99/05/28, Fairchild AFB, WA - Article 92. You, who knew of your duties, on or about 13 May 99, were derelict in the performance of those duties in that you willfully cleared your duty weapon without supervision, as it was your duty to do. Article 107. You, did, on or about 13 May 99, with intent to deceive, make to TSgt -----, an official statement, to wit: You stated that A1C ----- instructed you to clear your duty weapon without supervision, or words to that effect, which statement was totally false, and was then known by you to be so false. Suspended forfeiture of \$100.00 pay per month for two months, 14 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 07 JUN 99 - Two bad checks.
LOR, 15 MAY 99 - Dereliction of duty.
LOC, 24 FEB 99 - Failure to properly complete leave form.
LOR, 12 FEB 99 - Failure to go.
LOR, 10 NOV 98 - Failure to go.
LOC, 30 SEP 98 - Failure to go.

f. CM: None.

g. Record of SV: None.

(Discharged from Fairchild AFB)

h. Awards & Decs: AFAM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (01) Mos (05) Das
TAMS: (01) Yrs (07) Mos (07) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/06/24.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. DD Form 149.

02/11/01/ia



FD 2002-0308

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 92D AIR REFUELING WING (AMC)
FAIRCHILD AIR FORCE BASE WASHINGTON

30 JUN 1999

MEMORANDUM FOR 92 ARW/CC

FROM: 92 ARW/JA

SUBJECT: Legal Review of AFI 36-3208, *Administrative Separation of Airmen*
Administrative Discharge - [REDACTED]

1. I have reviewed the proposed involuntary separation action concerning [REDACTED], the respondent, and find it legally sufficient to support involuntary discharge for minor disciplinary infractions under AFPD 36-32 and AFI 36-3208, paragraph 5.49.
2. Background: On 17 Jun 99, the 92 SFS/CC initiated this separation action against the respondent for minor disciplinary infractions. He recommends a general discharge, without opportunity for probation and rehabilitation (P&R). The respondent acknowledged notification of this action on 17 Jun 99.
3. The following misconduct supports this discharge which is warranted by the evidence:
 - a. On or about 30 Sep 98, [REDACTED] was derelict in his duties in that he failed to report to the immunization clinic and receive his shots as he was instructed by [REDACTED], and [REDACTED]. For this misconduct, he received a letter of counseling dated 30 Sep 98.
 - b. On or about 10 Nov 98, [REDACTED] failed to go to his appointed places of duty in that he failed to go to a physical exam and a dental appointment. For these failures, he received a letter of reprimand dated 10 Nov 98.
 - c. On or about 10 Feb 99, [REDACTED] failed to go at the time prescribed to his appointed place of duty in that he failed to go to chemical warfare defense training (CWDT). For this failure, he received a letter of reprimand dated 12 Feb 99.
 - d. On or about 16 Feb 99, [REDACTED] failed to complete his leave form properly as ordered by [REDACTED] and [REDACTED] resulting in his taking leave without obtaining proper authorization. For this failure, he received a letter of counseling dated 24 Feb 99.
 - e. On or about 6 May 99, [REDACTED] with intent to defraud wrote two checks for the procurement of goods and services to Lilac City Auto Sales totaling \$1000 with insufficient funds. For this misconduct, he received a letter of reprimand dated 7 Jun 99.

f. On or about 13 May 99, [REDACTED] was derelict in his duties in that he willfully cleared his duty weapon without supervision, as it was his duty not to do. For this misconduct, he received an Article 15 dated 28 May 99 and an unfavorable information file was established. The punishment consisted of 14 days extra duty, a reprimand, and a suspended forfeiture of \$100 pay per month for two months.

g. On or about 13 May 99, [REDACTED] did, with intent to deceive, make to Technical [REDACTED], an official statement in that he stated [REDACTED] instructed him to clear his weapon without supervision, or words to that affect, which statement was totally false and was then known by him to be so false. For this action, he received an Article 15 dated 28 May 99 and an unfavorable information file was established. The punishment consisted of 14 days extra duty, a reprimand, and a suspended forfeiture of \$100 pay per month for two months.

4. Evidence favorable to [REDACTED] includes the following:

a. This 18 year-old airman has served on active duty for 1 year and 7 months. He began his current term of enlistment on 25 Nov 97. His military record contains no performance reports.

b. The respondent consulted counsel and waived his right to submit statements on his behalf.

5. Discussion:

a. By a preponderance of the evidence, a basis for discharge exists for minor disciplinary infractions pursuant to paragraph 5.49 of AFI 36-3208. Airmen in the active military service are required to maintain, both on and off duty, the high standards of personal conduct set for Air Force members. They occupy a unique position in society, representing the military establishment 24 hours a day. This special status carries with it a permanent obligation to uphold and maintain the dignity and good reputation of the Air Force at all times and in all places. Therefore, unacceptable conduct any time adversely affects military duty performance. If an airman's service has been honest and faithful, and when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the military record, an Under Honorable Conditions (General) characterization is warranted (AFI 36-3208, para 1.18.2). The 92 SFS/CC recommends a general discharge. I concur with the 92 SFS/CC's recommendation that the respondent's military service should be characterized by a general discharge.

b. The respondent has been on active duty for 1 year and 7 months. The respondent's recurring failure to conform to Air Force standards indicates that he is a poor candidate for probation and rehabilitation.

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

a. Retain the respondent.

b. Approve an Under Honorable Conditions (General) discharge. You are the discharge authority for this action. You may also suspend the discharge and offer the respondent probation and rehabilitation under Chapter 7, AFI 36-3208.

c. Forward the case file to the Commander, Fifteenth Air Force if you conclude an honorable discharge is warranted. The Commander, Fifteenth Air Force is the discharge authority for this action.

d. Direct reinitiation of administrative discharge processing (with board entitlement) if you conclude issuance of an Under Other Than Honorable Conditions discharge is warranted.

7. Recommendation: Approve a general discharge without probation and rehabilitation.





17 JUN 98

MEMORANDUM FOR [REDACTED]

FROM: 92 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions in accordance with AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as an honorable or under honorable conditions (general). I recommend your service be characterized with a general discharge. My reasons for this action are:

- a. On or about 30 Sep 98, you were derelict in your duties in that you failed to report to the immunization clinic and receive your shots as you were instructed by [REDACTED] and [REDACTED]. For this action, you received a letter of counseling dated 30 Sep 98.
- b. On or about 10 Nov 98, you failed to go to your appointed places of duty in that you failed to go to a physical exam and a dental appointment. For these failures, you received a letter of reprimand dated 10 Nov 98.
- c. On or about 10 Feb 99, you failed to go at the time prescribed to your appointed place of duty in that you failed to go to chemical warfare defense training (CWDT). For this failure, you received a letter of reprimand dated 12 Feb 99.
- d. On or about 16 Feb 99, you failed to complete your leave form properly as ordered by [REDACTED] and [REDACTED] resulting in your taking leave without obtaining proper authorization. For this failure, you received a letter of counseling dated 24 Feb 99.
- e. On or about 6 May 99, you, with intent to defraud, wrote two checks for the procurement of goods and services to Lilac City Auto Sales totaling \$1000 with insufficient funds. For this misconduct, you received a letter of reprimand dated 7 Jun 99.
- f. On or about 13 May 99, you were derelict in your duties in that you willfully cleared your duty weapon without supervision, as it was your duty to do. For this action, you received an Article 15 dated 28 May 99 and an unfavorable information file was established. The punishment consisted of 14 days extra duty, a reprimand, and a suspended forfeiture of \$100 pay per month for two months.

g. On or about 13 May 99, you did, with intent to deceive, make to Technical [REDACTED] an official statement in that you stated [REDACTED] instructed you to clear your weapon without supervision, or words to that affect, which statement was totally false and was then known by you to be so false. For this action, you received an Article 15 dated 28 May 99 and an unfavorable information file was established. The punishment consisted of 14 days extra duty, a reprimand, and a suspended forfeiture of \$100 pay per month for two months.

2. Copies of the documents to be forwarded to the separation authority to support 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 legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Capt Lewis, Area Defense Counsel, at 247-2918 for an appointment on 17 JUN 99 at 1030 HRS. 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 12 JUN 99 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 previously been scheduled for a medical examination. Complete all follow up appointments.

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 your unit orderly room.

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

[REDACTED]

Attachments:

- 1. LOC dated 30 Sep 98 (3 pages)
- 2. LOR dated 10 Nov 98 (2 pages)
- 3. LOR dated 12 Feb 99 (2 pages)
- 4. LOC dated 24 Feb 99 (3 pages)

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5. LOR dated 7 Jun 99 (2 pages)
- 5a. Copy of checks to Lilac City (1 page)
- 5b. DD Form 2258, Allotment form dated 9 Jun 99 (1 page)
- 5c. Response to LOR dated 10 Jun 99
6. Article 15 dated 28 May 99 (3 pages)
- 6a. LOR dated 15 May 99 (2 pages)
- 6b. Statement by [REDACTED] dated 14 May 99 (1 page)
- 6c. Statement by [REDACTED] dated 15 May 99 (1 page)
- 6d. SFI 31-207, 19 Apr 99, Chap 3 pg 21(1 page)
- 6e. Response to nonjudicial punishment proceedings dated 25 May 99(2 pages)
- 6f. Article 15 Response dated 25 May 99 by [REDACTED] (2 pages)
- 6g. Character statement by [REDACTED] dated 21 May 99 (1 page)
7. UIF Summary (1 page)