

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

| | | | | | | | | | |
|---|---------------------|-------------------------------------|---|-------|-------|--|--|--|--|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) | | GRADE | AFSN/SSAN | | | | | | |
| [REDACTED] | | A1C | [REDACTED] | | | | | | |
| TYPE | PERSONAL APPEARANCE | | X RECORD REVIEW | | | | | | |
| COUNSEL | | NAME OF COUNSEL AND OR ORGANIZATION | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">YES</td> <td style="width: 50%;">NO</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table> | | YES | NO | | X | 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 | | | | |
| [REDACTED] | | | | | X | | | | |
| ISSUES | INDEX NUMBER | EXHIBITS SUBMITTED TO THE BOARD | | | | | | | |
| A95.00 | A67.90 | 1 | ORDER APPOINTING THE BOARD | | | | | | |
| | | 2 | APPLICATION FOR REVIEW OF DISCHARGE | | | | | | |
| | | 3 | LETTER OF NOTIFICATION | | | | | | |
| HEARING DATE | CASE NUMBER | 4 | BRIEF OF PERSONNEL FILE | | | | | | |
| 7 JAN 03 | FD2002-0321 | | 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 | | | SIGNATURE OF BOARD PRESIDENT | | | | | | |
| [REDACTED] | | | [REDACTED] | | | | | | |
| INDORSEMENT | | | DATE: 7 JAN 03 | | | | | | |
| TO: | | | FROM: | | | | | | |
| SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742 | | | 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 FD02-0321 |
|---|--------------------------|
| <p>GENERAL: The applicant appeals for upgrade of discharge to Honorable.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.</p> <p>The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge is denied.</p> <p>The board finds that the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.</p> <p>ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received an Article 15 for driving while drunk and drinking under the age of 21. He also received a Letter of Reprimand for driving under the influence of alcohol, neglected to notify his superiors of the incident, and attempted to deceive the chain of command. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p> | |

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 99/03/10 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 77/01/04. Enlmt Age: 19 3/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-50, E-61, G-62, M-35. PAFSC: 1C651 - Space Systems Ops Journeyman. DAS: 97/01/02.

b. Prior Sv: (1) AFRes 96/04/26 - 96/08/06 (3 Mos 11 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 96/08/07 for 4 yrs. Svd: 2 Yrs 7 Mos 4 Das, all AMS.

b. Grade Status: A1C - 98/04/24
AMN - 97/02/07

c. Time Lost: None.

d. Art 15's: (1) 97/10/24, Peterson AFB, Co - Article 111. You did, on or about 10 Oct 97, adjacent to the main gate on Peterson Boulevard operate a vehicle, to wit: a passenger car while drunk. Article 92. You, who knew or should have known of your duties, on or about 10 October 97, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of 21, in violation of Colorado Law, as it was your duty to do. Suspended reduction to AB, and forfeiture of \$250.00 pay per month for two months. (No appeal) (No mitigation)

e. Additional: (EXAMINER'S NOTE: LOR details obtained from Notification Memorandum)

LOR, 18 FEB 98 - Driving under the influence of alcohol, neglected to notify the commander, first sergeant, and supervisor of the incident, and attempted to deceive chain of command.

f. CM: None.

- g. Record of SV: 96/08/07 - 98/05/06 Falcon AFB 4 (Initial) REF
98/05/07 - 99/02/21 Schriever AFB 2 (Dir by Cmdr) REF

(Discharged from Schriever AFB)

- h. Awards & Decs: AFTR, AFOUA.

- i. Stmt of Sv: TMS: (2) Yrs (10) Mos (15) Das
TAMS: (2) Yrs (7) Mos (4) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/23.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

None.

02/11/12/cr



DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)



MEMORANDUM FOR 50 SW/CC

04 MAR 1999

FROM: 50 SW/JA
 608 Navstar Street Ste 18
 Schriever AFB CO 80912-3018

SUBJECT: Legal Review of AFI 36-3208, Discharge of [REDACTED]
 11 SWS (AFSPC)

1. I have reviewed the administrative discharge action pertaining to [REDACTED] (respondent), 258-55-8839, for legal sufficiency. There has been substantial compliance with the applicable substantive and procedural provisions of AFI 36-3208. This action was initiated on 22 Feb 99 to administratively separate respondent from the United States Air Force pursuant to AFI 36-3208, chapter 5, section H, paragraph 5.50.2, for misconduct. The statutory basis for this action is 10 U.S.C. § 1169 and a legal review is required by AFI 36-3208, paragraph 6.12.1.
2. The recommendation for discharge is based upon the information contained in paragraph 2 of the notification memorandum. The notification memorandum alleges he drove while intoxicated on two separate occasions (once on base and once downtown), failed to refrain from consuming alcohol while under the age of 21 years, and he attempted to deceive his chain of command by requesting reinstatement of his driving privileges which had been revoked due to his previous DUI. He has been reprimanded and punished under Article 15, with forfeiture of \$250 pay per month for 2 months. The commander recommends separation from the Air Force with a general discharge and that probation and rehabilitation should not be offered. The allegations are supported by a preponderance of the evidence.
3. The respondent is 22 years old and enlisted on 7 Aug 96, for a term of 4 years, and has a total of 2 years, 6 months active service. After consulting with the Area Defense Counsel, the respondent has submitted a statement for you to consider.

Statement of [REDACTED] (ADC): [REDACTED] asserts that [REDACTED] does not wish to be discharged from the Air Force. He states [REDACTED] may have a more serious problem with alcohol, even after having been through the Track III out-patient program, and feels that the 11 SWS has not allowed [REDACTED] the opportunity to attend programs and probe resources to combat his alcohol problem. He references the Letter of Reprimand (LOR) and focuses on the statement that repeated actions will result in a discharge. [REDACTED] stresses [REDACTED] has not had another incident and is being discharged despite the fact [REDACTED] received the LOR for rehabilitation. He also points out military law does not require a military member to incriminate himself by reporting off-base allegations of misconduct. He concludes that [REDACTED]

[REDACTED] is an outstanding airman on the job and believes he can be rehabilitated, if he receives the proper help for his situation.

4. Errors and Irregularities: There are no errors or irregularities that prejudice respondent or deprive him of any substantial rights.

5. As Discharge Authority, you are empowered to:

a. Approve the discharge and issue a general (under honorable conditions) discharge certificate;

b. Recommend an honorable discharge and forward the case file to the 14th Air Force/CC for disposition;

c. Approve a general discharge, but suspend its execution for a period of up to one year for probation and rehabilitation;

d. Order respondent to be retained in the Air Force.

6. I recommend you direct that respondent be separated from the United States Air Force with a general discharge without probation and rehabilitation and that paragraph 5.50.2 be cited as the basis for this action. [REDACTED] reliance on the rehabilitative nature of an LOR is misplaced. In this case, the LOR's primary purpose was to document the misconduct which occurred off-base. Its rehabilitative efforts were secondary. A general discharge is appropriate when significant negative aspects of the member's conduct outweigh positive aspects of his military record. AFI 36-3208, paragraph 1.18.2. Probation and rehabilitation is inappropriate because of respondent's continued and repeated improper conduct despite attempts at correction. Separation of respondent can be accomplished as soon as the file includes the medical evaluation indicating the respondent is medically qualified to be involuntarily discharged.

7. Please contact my POC, [REDACTED], at [REDACTED] if you have any questions or need additional information.

[REDACTED]
[REDACTED], Capt, USAF
Acting Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)



22 Feb 99

MEMORANDUM FOR [REDACTED] 11 SWS (AFSPC)

FROM: 11 SWS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for 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:

a. On 11 Feb 99, I was informed that you had been arrested by the Colorado Springs Police Department on 13 Nov 98, for driving under the influence (DUI) of alcohol. You intentionally neglected to notify your supervisor, First Sergeant, or me of the incident. Furthermore, you attempted to deceive your chain of command by requesting reinstatement of you driving privileges which had been revoked due to your previous DUI. For this misconduct you received a Letter of Reprimand, dated 18 Feb 98. (atch 1a)

b. On or about 10 Oct 97, you operated a vehicle while under the influence of alcohol and failed to refrain from consuming alcohol while under the age of 21 years. For this misconduct, you received nonjudicial punishment under Article 15, UCMJ, dated 24 Oct 97. Your punishment included a suspended reduction in grade and forfeiture of \$250.00 pay per month for 2 months. (atch 1b)

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 discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and any special pay, bonus, or education assistance funds may be subject to recoupment.

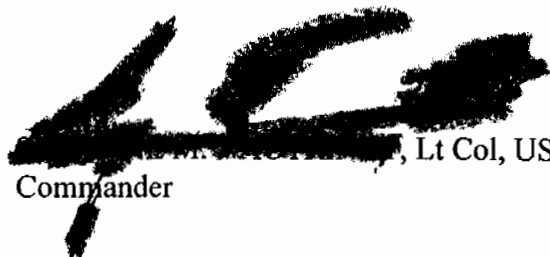
3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Council at Building 850, Peterson AFB, Colorado on 23 Feb 99 at 1000 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within 3 workdays from the date you receive this memorandum of notification 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. You must report to the Peterson AFB Clinic at 1300 hours on 23 Feb 99 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 your unit orderly room.

 , Lt Col, USAF
Commander

Attachments:

1. Supporting Documents
 - a. Letter of Reprimand (w/atch), dated 18 Feb 99
 - b. AF Form 3070, dated 24 Oct 97
2. Acknowledgment