

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AMN	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	U0THC	OTHER	DENY
	X*+				
	X*+				
	X*+				
					X
					X

ISSUES A93.02, A92.16, A92.22	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 RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

REMARKS

* Change Reason and Authority to Secretarial Authority (SPD: JFF)

+ Change RE Code to: 3K

Case heard at Washington, D.C.

Advise applicant of the decision of the Board.

SIGNATURE OF RECORDER: *[Signature]* SIGNATURE OF BOARD PRESIDENT: _____

TO: SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	INDORSEMENT	DATE: 03-04-14
		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

FD2002-0341

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change his reentry code.

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: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an impropriety that would justify upgrade of the discharge. However, after a thorough review of the record, the Board finds that the applicant's character of discharge and reason for discharge are inequitable.

Issues. The applicant was discharged with an under honorable conditions (general) discharge for minor disciplinary infractions. Member had two Letters of Reprimand, four Letters of Counseling, and an Article 15. His misconduct included at least six instances of being late to work, one traffic violation, and one incident of dereliction of duty. Member now attributes his behavior to immaturity and notes he has grown up and overcome the behavior that led to his discharge. He notes that the Army National Guard allowed him to enlist after his administrative discharge from the Air Force, and was subsequently allowed to transition to the Air National Guard. Now he desires to return to the active duty Air Force. While the Board did not condone applicant's misconduct, which was a departure from conduct expected of all military members, they also noted applicant was not involved in serious criminal misconduct. But for these offenses, applicant was a satisfactory airman and good citizen, and has continued to be a good citizen since his discharge. Therefore, the Board found sufficient mitigation at this time to render the characterization of the discharge received by the applicant too harsh. The Board found the evidence submitted by applicant sufficient to warrant an Honorable discharge, to change the reason and authority for the discharge, and to change the reenlistment code.

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 applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable, and Secretarial Authority; under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 4 Nov 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, Change to Reentry Code, and Reason for Discharge).

2. **BACKGROUND:**

a. DOB: 5 Jun 76. Enlmt Age: 18 9/12. Disch Age: 22 5/12. Educ: HS DIPL. AFQT: N/A. A-53, E-73, G-57, M-63. PAFSC: 2A651A - Aerospace Propulsion Journeyman. DAS: 17 Jan 98.

b. Prior Sv: (1) AFRes 24 Mar 95 - 16 Aug 95 (4 Mos 23 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 17 Aug 95 for 4 yrs. Svd: 3 Yrs 2 Mos 18 Das, all AMS.

b. Grade Status: AMN - 21 Oct 98 (Article 15, 21 Oct 98)
A1C - 17 Dec 96
AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 21 Oct 95, Ellsworth AFB, SD - Article 86. You did, on or about 15 Oct 98, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to the grade of AMN, and 10 days extra duty. (No appeal) (No mitigation)

e. Additional: LOC, 6 OCT 98 - Traffic violation.
LOR, 11 AUG 98 - Late for work.
LOC, 29 APR 98 - Dereliction of duty.
LOC, 23 APR 98 - Late for work.
LOR, 8 APR 98 - Late for work.
LOC, 19 MAR 98 - Late for work.
MFR, 15 OCT 95 - Late for work.

f. CM: None.

g. Record of SV: 17 Aug 95 - 16 Apr 97 Spangdahlem AB 4 (Initial)
17 Apr 97 - 30 Dec 97 Spangdahlem AB 3 (CRO)

(Discharged from Ellsworth AFB)

h. Awards & Decs: NDSM, AFOLTR, AFGCM.

i. Stmt of Sv: TMS: (3) Yrs (7) Mos (11) Das
TAMS: (3) Yrs (2) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 9 Aug 02.
(Upgrade Discharge to Honorable, Change Reentry Code, and Reason for Discharge)

Issue: I [REDACTED] am requesting to have my DD Form 214 changed so that the reentry code is changed to allow me back into the Air Force. I also wish to (sic) have the narrative changed to say other then MISCONDUCT. I feel that when I was discharge (sic) it was a quick fix to a small and minor problem. Being late yes I understand is a problem but I feel that it isn't something that should have been taken to the measure of discharge. I have enclosed a letter the (sic) explains (sic) what happened durring (sic) that period of time. I have been talking with my congressman about all this and he has sent me letters that will help on my behalf. I feel that I have grown up enough to be able to wake up on time and to do my job to the best of my ability. Before I was discharged form (sic) the Air Force I was a really hard worker and I really loved my Job. Jet engines were the only real thing I liked doing and I was good at it. I feel that I should be allowed back into the Air Force Active Duty because I can make a difference and with the fact that First the Army National Guard let me enlist and then 2 yrs later the Air National Guard let me back into the Air Force. Please consider all that I have giving (sic) to you and the documents that I have enclosed.

ATCH

1. Letter to Review Board.
2. Congressional Inquiry.
3. DD Form 214.
4. Enlistment into the Army National Guard.
5. Enlistment into the Air National Guard.
6. Waiver for Misconduct Army National Guard.

18 Nov 02



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS 28TH BOMB WING (ACC)
 ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

MEMORANDUM FOR 28 BW/CC

FROM: 28 BW/JA

SUBJECT: Legal Review - Notification Discharge: [REDACTED]

1. I have reviewed the attached administrative discharge package on Airman [REDACTED] [REDACTED] 28th Maintenance Squadron, and find it legally sufficient to support discharge. It also supports 28 MXS/CC's recommendation to separate Respondent with an under honorable conditions (general) discharge without Probation and Rehabilitation (P & R).

2. On 26 Oct 98, 28 MXS/CC initiated this separation action pursuant to AFI 36-3208, paragraph 5.49, for misconduct involving minor disciplinary infractions (Tab D). On 27 Oct 98, Respondent waived his right to consult legal counsel and his right to submit statements on his own behalf (Tab K).

3. The reasons for the proposed discharge action are:

a. On 19 Mar 98, Respondent was two and a half hours late for work. This was not his first incident of being late for work. For this, Respondent received a Letter of Counseling (LOC) on 19 Mar 98.

b. On 31 Mar 98, Respondent was forty minutes late for work. Also, he was late to work on several other occasions during March. For this, Respondent received a Letter of Reprimand (LOR) on 8 Apr 98.

c. On 23 Apr 98, Respondent was late for work. His supervisor called him to awaken him at 0705. At 0730 Respondent arrived at work. He said his alarm was ringing when he answered the phone and that he either hit the snooze button or slept through the alarm. For this Respondent received an LOC on 23 Apr 98.

d. On 28 Apr 98, Respondent was responsible for cleaning the breakroom. The breakroom was not clean that day, but Respondent was given the benefit of the doubt, due to ORI preparation. On 29 Apr 98, the breakroom was still not clean. The trash was overflowing, a dirty mop and a bucket were left in the corner, and the ping pong table was not set up. For this Respondent received an LOC on 29 Apr 98.

e. On 6 Aug 98, Respondent was late for work. He stated the reason he was late for work

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was that he had used his alarm earlier in the day and reset it for the morning at that time. He did not turn on the alarm when he reset it and then later he forgot to turn it on for the next morning. For this Respondent received an LOR on 11 Aug 98. This LOR established his Unfavorable Information File (UIF).

f. On 10 Aug 98, Respondent was issued a "warning" Armed Forces Traffic Ticket, DD Form 1408, for speeding, specifically for driving 17 miles per hour in a 10 miles per hour zone. Also, Respondent was not wearing all appropriate protective gear while operating a motorcycle on Ellsworth Air Force Base. On 9 Sep 98, Respondent was issued an Armed Forces Traffic Ticket, DD Form 1408, for speeding, specifically for driving 22 miles per hour in a 10 miles per hour zone. Respondent had 4 points assessed on his driving record for this incident. For these, Respondent received an LOC on 6 Oct 98. In paragraph 1 of this LOC, the date of the "warning" Armed Forces Traffic Ticket, DD Form 1408, was incorrectly cited as 26 Aug 98. The correct date of this "warning" Armed Forces Traffic Ticket, DD Form 1408, is 10 Aug 98.

g. Respondent did, at or near Ellsworth Air Force Base, South Dakota, on or about 15 October 1998, without authority, fail to go at the time prescribed to his appointed place of duty, to wit: Building 601, Propulsion Flight. For this, he was punished under Article 15 of the Uniform Code of Military Justice (UCMJ) on 21 Oct 98. Respondent received a reduction to the grade of airman, and he was also given 10 days extra duty. This Article 15 action was added to his UIF.

4. This case was properly processed under AFI 36-3208, paragraph 5.49, for misconduct involving minor disciplinary infractions, and the facts of this case meet the criteria for discharge under this paragraph. In three years of active duty military service, Respondent has compiled a record of misconduct which has resulted in four LOCs, two LORs, one Article 15 action, and two UIF entries. Respondent's pattern of showing up late for work is not consistent with military standards. Respondent's misconduct supports a basis for administrative discharge, and I concur with 28 MXS/CC's recommendation to discharge him.

5. Respondent's service should not be characterized as honorable. After considering all the facts in this case, the negative aspects of Respondent's conduct outweigh the positive aspects of his military record, thereby warranting an under honorable conditions (general) discharge. Respondent's performance has not "been so meritorious that any other characterization would be clearly inappropriate" as required by AFI 36-3208, paragraph 5.48.4, for an honorable discharge. After considering all of the circumstances, I concur with the commander's determination that an under honorable conditions (general) discharge is appropriate.

6. As the separation authority, you must consider Probation and Rehabilitation (P & R). However, P & R is not appropriate in this case. Respondent has received numerous opportunities to change his disruptive behavior. Efforts at rehabilitation have not been effective, and Respondent has not shown any willingness to be rehabilitated. Retaining Respondent in a probationary status would degrade the good order and discipline of the unit.

7. As the Special Court-Martial Convening Authority, you may:

- a. Direct that Respondent be retained; or
- b. Direct that Respondent be separated with an under honorable conditions (general) discharge, with or without P & R; or
- c. Direct that the case be heard by a discharge board if you believe an under other than honorable conditions (UOTHC) discharge is appropriate; or
- d. Recommend to 8 AF/CC that Respondent be separated with an honorable discharge, with or without P & R.

RECOMMENDATION

8. Separate Airman Allen , under AFI 36-3208, paragraph 5.49, with an under honorable conditions (general) discharge, without P & R.



Major, USAF
Acting Staff Judge Advocate

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 28TH LOGISTICS GROUP (ACC)
ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

26 OCT 1998

MEMORANDUM FOR [REDACTED]

FROM: 28 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct involving minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I recommend that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. On 19 Mar 98, you were two and a half hours late for work. This was not your first incident of being late for work. For this you received a Letter of Counseling (LOC) on 19 Mar 98.

b. On 31 Mar 98, you were forty minutes late for work. Also, you were late to work on several occasions during March. For this you received a Letter of Reprimand (LOR) on 8 Apr 98.

c. On 23 Apr 98, you were late for work. Your supervisor called you to wake you up at 0705. At 0730 you arrived at work. You said your alarm was ringing when you answered the phone and that you either hit the snooze button or slept through the alarm. For this you received an LOC on 23 Apr 98.

d. On 28 Apr 98, you were responsible for cleaning the breakroom. It was not clean but you were in the middle of cleaning so you were given the benefit of the doubt because of the ORI preparation. On 29 Apr 98, the breakroom was still not clean. The trash was overflowing, a dirty mop and a bucket were left in the corner, and the ping pong table was not set up. For this you received an LOC on 29 Apr 98.

e. On 6 Aug 98, you were late for work. You stated the reason you were late for work was that you had used your alarm earlier in the day and reset it for the morning at that time. You did not turn on the alarm when you reset it and then later you forgot to turn it on for the next morning. For this you received an LOR on 11 Aug 98. This LOR established your Unfavorable Information File (UIF).

f. On 10 Aug 98, you were issued a "warning" Armed Forces Traffic Ticket, DD Form 1408, for speeding, specifically for driving 17 miles per hour in a 10 miles per hour zone. Also,

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you were not wearing all appropriate protective gear while operating a motorcycle on Ellsworth Air Force Base. On 9 Sep 98, you were issued an Armed Forces Traffic Ticket, DD Form 1408, for speeding, specifically for driving 22 miles per hour in a 10 miles per hour zone. You have 4 points assessed on your driving record for this incident. For this you received an LOC on 6 Oct 98. In this LOC in paragraph 1, the date of the "warning" Armed Forces Traffic Ticket, DD Form 1408, was incorrectly cited as 26 Aug 98. The correct date of this "warning" Armed Forces Traffic Ticket, DD Form 1408, is 10 Aug 98.

g. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 15 October 1998, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 601, Propulsion Flight. For this you were punished under Article 15 of the Uniform Code of Military Justice (UCMJ) on 21 Oct 98. You received a reduction to the grade of airman. You were also given 10 days extra duty. This Article 15 was added to your UIF.

3. 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 in the Air Force.

4. 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 [REDACTED] Area Defense Counsel, 5-2158, 1000 Ellsworth St, Ste 1700 on 28 Oct 98 at 0930 hrs. You may consult civilian counsel at your own expense.


5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 30 Oct 98, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. 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.

7. You have been scheduled for a medical examination. You must report to the Physical Exams Section of the Base Hospital at 0730 hrs on 22 Oct 98 for the examination. This is a mandatory appointment and you must be in uniform.

8. 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 orderly room.

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


Commander USAF

Attachments:

1. Supporting documents
 - LOC - 19 Mar 98
 - LOR - 8 Apr 98
 - LOC - 23 Apr 98
 - LOC - 29 Apr 98
 - LOR/UIF - 11 Aug 98
 - LOC - 6 Oct 98
 - Art 15/UIF - 21 Oct 98
2. Airman's Acknowledgment