

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 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
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.21, A01.21	INDEX NUMBER A67.90	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
HEARING DATE 03-01-24	CASE NUMBER FD2002-0351	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

Case heard at Washington, D.C.

Advise applicant of the decision of the Board and 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: 03-01-24
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TO: SAE/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

CASE NUMBER

FD2002-0351

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

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

Issues. Applicant was discharged for a pattern of misconduct, conduct prejudicial to good order and discipline. He had two Articles 15, and an Unfavorable Information File. His misconduct included failure to go to his appointed place of duty, then arriving at his appointed place of duty under the influence of alcohol, while he was under the legal age allowed, and which resulted in his being disrespectful to a superior non-commissioned officer in the performance of his duties. The incident began at 0815 hours, and member's BAT at 1030 hours was .193. In his reply to this Article 15, member admitted he had made some mistakes and that what happened was his fault. His other Article 15 was for sleeping on his post as a Security Forces flight-line sentinel, as witnessed by two other Security Forces personnel. In his reply to this Article 15, member denied the offense. At the time of the discharge, applicant submitted a statement in his own behalf requesting retention, and a character letter. The Board noted that when his misconduct occurred, member was the same age as other airmen who had adhered to the standards and he knew right from wrong, so he was held accountable for his actions. The Board viewed member's misconduct as a serious departure from the standards expected of airmen. No inequity or impropriety was found in this discharge in the course of the records review.

Applicant cited his desire to return to military service as justification for an upgrade. While the Board commends applicant on this desire to return to military service, and is sympathetic to the impact a General discharge has on his reenlistment code, this is not a matter of equity or propriety that warrants an upgrade.

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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 26 Mar 01 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, to Change the RE Code and Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 23 Jun 80. Enlmt Age: 19 0/12. Disch Age: 20 9/12. Educ: HS DIPL. AFQT: N/A. A-63, E-41, G-41, M-34. PAFSC: 3P031 - Security Forces Apprentice. DAS: 24 Jan 00.

b. Prior Sv: (1) AFRes 30 Jun 99 - 10 Aug 99 (1 month 11 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 11 Aug 99 for 4 yrs. Svd: 1 Yr 7 Mos 16 Das, all AMS.

b. Grade Status: AB - 26 Feb 01 (Article 15, 26 Feb 01)
AMN - 22 Jan 01 (Article 15, 22 Jan 01)
A1C - 24 SEP 99

c. Time Lost: None.

d. Art 15's: (1) 26 Feb 01, Moody AFB, GA - Article 86. You, did, on or about 11 Feb 01, without authority, fail to go at the time prescribed to your appointed place of duty. Article 91. You, on or about 11 Feb 01, were disrespectful in language and deportment toward TSgt ----, a noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of his office by saying to him "Here you got it, you go ahead, you are fucking me. I know how you are, if I wasn't a Negro, you would not be doing this. I know all about you." and, "Yeah, I probably would swing on one of ya'll cats." or words to that effect, by slamming your identification card down on a desk and by repeatedly striking the palm of your hand with your closed fist while staring in the eyes of TSgt ----- Article 92. You, who knew of your duties, on or about 11 Feb 01, were derelict in the performance of those duties in that you willfully failed to abstain from the consumption of alcohol while under the age of 21 years old, as it was your duty to do. Reduction to AB, and 45 days extra duty. (No appeal) (No mitigation)

(2) 22 Jan 01, Moody AFB, GA - Article 113. You, on or about 11 Jan 01, being posted as a sentinel as Sierra-3 at the F-16 ramp area, were found sleeping upon your post. Reduction to Amn, forfeiture of \$100.00 pay per month for 2 months, and 45 days extra duty.
(Appeal/Denied) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: None.

(Discharged from Moody AFB)

h. Awards & Decs: AFTR

i. Stmt of Sv: TMS: (1) Yr (8) Mos (25) Das
TAMS: (1) Yr (7) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 13 Aug 02.
(Change Discharge to Honorable, Change the RE Code and Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

22Nov02/ia

To the assessor, Hi my name is [REDACTED] on I came in the military in August of 1999 as a Security Forces Apprentice, I wanted it so bad that I lost 50 pounds in one month. Once I went to M.E.P.S. I lost an additional 8 pounds that day because I wanted to be in the military that bad. The reason I picked being a cop is because I really wanted to be a dog handler, but as you can see I did not make it that far, reason being I was kicked out of the military (The one thing I did not want). I tried very hard fighting to stay in the military, but my commander said he wanted to make an example out of me to the rest of the airmen. There were a lot of people behind me to stay in, but my commander who was an army/marine cop still set in his hard ways, did not believe in giving good people a chance.

I never caused any trouble in my younger days and I thought that I could make a difference in the world. My whole career in the military, I never got in trouble except these two times which I will explain them both and how one mistake lead to another. When I was on T.D.Y. I was not written up for anything. I also was on mid shift while I was at P.S.A.B Saudi Arabia. I finished my tour with no problems, once I came back to my base while working on post an airman came to relieve me on post.

While they were coming though the E.C.P my alpha and I saw them come though the F.O.D. checkpoint. We were waiting to be relieved with the music turned up and the truck running. I wasn't looking out of the window, which I should have been so if I was charged for dereliction of duty that would have been right, and I would not have any problem with my punishment. Our relief was on their way to takeover our post. They came beside us and parked not once was a horn blown to make us aware they were there. The leader of the truck came out and tapped on my window at which we immediately got out of the truck and did a proper relief. I came home and four hours later I was called back and notified that we were caught sleeping on post, which is not a fact.

As a security policemen if you find someone sleep you are to detain them, take their weapons and call both flight chief's out to access the situation. That was not the case here with us they relieved us then called us back. The Alpha leader stated to me that he did not want to write a statement, but his flight chief and the airman was very, very close so he told the airman to write a statement and he did so, at least that is what I was told. We told the lawyer what he said, he was interviewed by our lawyer and one of the questions the lawyer asked was, were the windows in the truck foggy, the leader and the alpha stated no the windows were not foggy. (If we were sleep the windows would have been foggy.)

In their interview they did not once say they saw our eyes closed all they did was look in our truck and assumed we were sleep. Our lawyer told us to just take the Article 15 instead of going to court because he felt this would be a hard case to win. My alpha and I wanted to go to court but we listened to our lawyer. The Article 15 took my stripe, some of my pay and 30 days extra duty. I was upset about the whole thing and how I came in the military for 6 years with two stripes now one of my stripes was no more. I wanted and still want to do 20 plus years in the military. One of the reasons I picked being a cop was to be a working dog handler. To be a dog handler you must be a senior airman to go to canine school. When I lost that stripe it pushed me further from being a dog handler.

I wanted to accomplish something like my brother and sister who are in the Air Force all have something special being a dog handler was my special something. The main thing that lead up to me getting kicked out was I felt like I have never gotten in trouble my whole career, two people who has Article 15's, L.O.C's, L.O.R's integrity taken over my integrity. Before out processed out of the military both the airman were getting kicked out. One was for sleeping on post and the other was for going AWAL.

After the lost of my stripe I thought that a bottle of liquor would solve my problems, which only made matters worse. When I got dressed for work I realized that I was to intoxicated to be on duty, so I called the clinic and was told to go to work anyway. While at work, my superiors noticed liquor and questioned me and realized I was under the influence. Once they started to read me my rights I new my career was over. Now the one thing I wanted was about to be gone.

To this day I wish that whole thing never happened because I would still be in the military. Sir or Ma'am I know I am still military material I am willing to go to any branch that is just how bad I want back in the service. I would even redo basic training all over again for a chance to get back in the military.

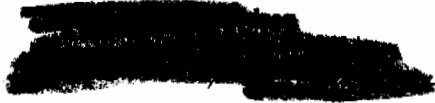
The reenry code I have is what is holding me back because I have gone to each branch to see if I could get in but they say I have to get my discharge upgraded and this is why I am writing you now. I am asking no pleading to have my discharge upgraded because I have learned my lesson. This type of thing

will never happen again. I swear this on every thing I love I just need a chance to make things right to prove that people make mistakes and if given a chance can do right by the military.

As of right now I am a correction officer but it doesn't compare to serving my country. I feel as though I am ready for the chance to fulfill my goal and fly straight. I have waited my time and worked hard as a civilian. Every day I regret my mistake and I vow never to make the same mistake twice.

Thank you for taking the time to here my case I hope and pray you will bless me with the chance to show you and everyone that a person can make a mistake an can still succeed in the military because I have the mind frame to look pass this obstacle an keep going, thank you again for giving me a chance to appeal.

Sincerely,

A large, solid black rectangular redaction mark covering the signature area of the letter.



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 347TH WING (ACC)
MOODY AIR FORCE BASE, GEORGIA

21 March 01

MEMORANDUM FOR 347 WG/CC

FROM: 347 WG/JA

SUBJECT: Legal Review of AFPD 36-32 and AFI 36-3208 Discharge Action:
[REDACTED] 347th Security Forces Squadron (347 SFS)

1. I have reviewed the subject discharge action and find it legally sufficient. [REDACTED], 347 SFS/CC, has recommended that [REDACTED] be involuntarily separated from the Air Force under honorable conditions (general) in accordance with AFPD 36-32 and AFI 36-3208, paragraph 5.50.2, for a pattern of misconduct (conduct prejudicial to good order and discipline). [REDACTED] does not recommend a program of probation and rehabilitation (P&R). I concur.

2. In reviewing this action, I find that there is a legally sufficient basis to separate [REDACTED] from the Air Force with an under honorable conditions (general) discharge without P&R, as recommended.

a. Basis for discharge: AFI 36-3208, paragraph 5.50.2, states that airmen are subject to discharge for conduct prejudicial to good order and discipline, which is defined as conduct that tends to disrupt order, discipline, or morale within the military community. This category of conduct also includes that which causes dissent, disruption, and degradation of mission effectiveness, as well as conduct that tends to bring discredit on the Air Force in the view of the civilian community. [REDACTED] misconduct includes failing to report to his appointed place of duty on time, sleeping while on duty, being disrespectful in language to a superior non-commissioned officer, and the use of alcohol while under the age of 21 years old. In response to this misconduct [REDACTED] received two punishments pursuant to Article 15, UCMJ, which were placed in his UIF.

b. Should [REDACTED] be discharged? In determining whether [REDACTED] should be discharged, you may consider the nature of the offenses and the circumstances surrounding them. You must then decide whether his conduct was indeed prejudicial to good order and discipline as defined above. In my view, [REDACTED] misconduct has had deleterious effect on order and discipline within the wing. I believe the serious and repetitive nature of [REDACTED] misconduct demonstrates an unwillingness to conform to Air Force standards. Consequently, [REDACTED] should be administratively discharged.

[REDACTED]

c. Service characterization: This notification discharge can be characterized as honorable or under honorable conditions (general).

(1). Honorable: AFI 36-3208, paragraph 1.18.1, states that an honorable discharge should be given when the airman's service has met Air Force standards of acceptable conduct and the member's service is so meritorious that any other characterization would be inappropriate. Due to the serious disciplinary actions taken, [REDACTED] record during this enlistment does not support an honorable discharge. Moreover, the General Court-Martial Convening Authority would have to approve such a characterization.

(2). General: Paragraph 1.18.2 states that characterization of an airman's service as under honorable conditions (general) is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of his military record. [REDACTED] military record does not indicate exceptional service. On the contrary, the [REDACTED] misconduct outweighs the positive aspects of his record. Accordingly, an under honorable conditions (general) discharge is appropriate.

d. Probation and Rehabilitation: AFI 36-3208, paragraph 7.3, states that P&R may be offered to airmen who have demonstrated a potential to serve satisfactorily, have the capacity to be rehabilitated for continued military service or completion of the current enlistment, or whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. The squadron commander has recommended that P&R not be offered because the squadron has already attempted to rehabilitate [REDACTED]. I concur. [REDACTED] received an Article 15 for his first serious breach of discipline, but to no avail. It did not deter [REDACTED] from further misconduct as hoped. As a result, [REDACTED] received another Article 15 for his most recent misconduct as well as the initiation of this administrative discharge. Thus, the willful and serious nature of [REDACTED] misconduct indicates that further attempts at rehabilitation would be unfruitful.

[REDACTED] Response: [REDACTED] has been in the Air Force for less than six years, and is therefore not entitled to a hearing before an administrative discharge board. On 12 Mar 01 [REDACTED] was informed that he was being considered for discharge and informed of his right to consult military counsel and submit statements on his own behalf. On 14 Mar 01 [REDACTED] submitted a statement requesting that he be retained in the Air Force. [REDACTED] maintains that he should not have received his first Article 15 because he was not sleeping while on duty but instead was "relaxing and listening to my music." He also contends that had he not been issued the first Article 15, he would not have been given the second Article 15. According to [REDACTED] this is because he started drinking after he received the first Article 15 and had been drinking the night prior to the moment when he behaved disrespectfully to a superior non-commissioned officer. [REDACTED] argument is not persuasive. The evidence in the first Article 15 included the observations of two witnesses who knocked on the

[REDACTED]

window of [redacted] parked patrol vehicle several times before [redacted] woke up. Thus, [redacted] appropriately determined that [redacted] was asleep while being posted as a sentinel. As for the second Article 15, [redacted] contention that the misconduct was a direct result of drinking all night only serves to reinforce the decision by [redacted] that an Article 15 was the appropriate response for this offense.

4. [redacted] physical examination is not yet complete. However, AFI 36-3208 allows processing of involuntary discharge actions to continue up until actual separation. Any approved discharge is then held in abeyance until the member is found medically qualified for worldwide duty.

5. As the Special Court-Martial Convening Authority, you have the following options:

a. Retain the respondent;

b. Recommend to the General Court-Martial Convening Authority (9 AF/CC) that the respondent be separated with an honorable discharge with or without the opportunity for P&R;

c. Approve an under honorable conditions (general) discharge with or without the opportunity for P&R; or,

d. Direct that the unit commander reinitiate this action for processing IAW board hearing procedures if you believe that an under other than honorable conditions (UOTHC) discharge may be warranted.

6. I recommend that you direct [redacted] be separated under honorable conditions (general) without P&R. I also recommend that you bar [redacted] from Moody AFB for two years in light of the misconduct underpinning [redacted] discharge.

[redacted]

[redacted]



FD 2002-0351

DEPARTMENT OF THE AIR FORCE
347TH SECURITY FORCES SQUADRON (ACC)
MOODY AIR FORCE BASE, GEORGIA

12 March 2001

MEMORANDUM FOR [REDACTED]

FROM: 347 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for conduct prejudicial to good order and discipline (pattern of misconduct). The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).
2. My reasons for this action are as follows:
 - a. You, on or about 11 January 2001, at or near Moody Air Force Base, Georgia, being posted as a sentinel as Sierra-3 at the F-16 ramp area, were found sleeping upon your post. For this offense, you received punishment pursuant to Article 15, UCMJ, dated 22 Jan 01 (Atch 1a), which was used to establish your unfavorable information file (UIF). Your punishment included reduction to the rank of airman, forfeiture of \$100.00 pay per month for two months, and 45 days extra duty.
 - b. You, did at or near Moody Air Force Base, Georgia, on or about 11 February 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 347th Security Forces Squadron, Security Forces Control Center, 8209 Apron A Road. You, at or near Moody Air Force Base, Georgia, on or about 11 February 2001, were disrespectful in language and deportment toward Technical Sergeant [REDACTED] a non-commissioned officer, then known by you to be a superior non-commissioned officer, who was then in the execution of his office, by saying to him, "Here you got it, you go ahead, you are fucking me. I know how you are, if I wasn't a Negro, you would not be doing this. I know all about you." and, "Yeah, I probably would swing on one of ya'll cats." or words to that effect, by slamming your identification card down on a desk and by repeatedly striking the palm of your hand with your closed fist while staring in the eyes of Technical Sergeant [REDACTED]. Also, you, who knew of your duties at or near Moody Air Force Base, Georgia, on or about 11 February 2001, were derelict in the performance of those duties in that you willfully failed to abstain from the consumption of alcohol while under that age of 21 years old, as it was your duty to do. For these offenses, you received punishment pursuant to Article 15, UCMJ, dated 26 Feb 01 (Atch 1b), which was placed in your UIF. Your punishment included reduction to the rank of airman basic and 45 days extra duty.

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 and will probably be precluded from enlistment in any component of the armed forces. Any pay 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 [REDACTED] Area Defense Counsel, in Building 5107 Austin Ellipse, Moody AFB, GA, extension (DSN) 460-3421, on 13 March 2001 at 1100 hrs. Please take your copy of this Notification Memorandum and attachments with you to your appointment. You may consult civilian counsel at your own expense.

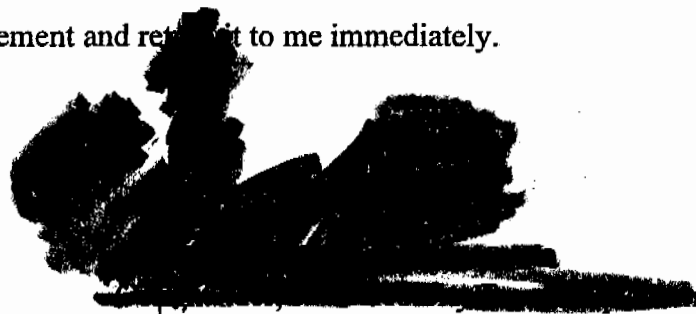
4. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me within three duty days after receipt of this notification letter unless you request and receive an extension for good cause shown. I will send them to the separation 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 Moody Air Force Base Hospital, Physical Exams, Building 3296, on 13 March 2001 at 1300 hrs for the examination. This is a mandatory appointment. Be sure to bring your medical records to this appointment.

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 acknowledgement and return it to me immediately.



Attachments:

1. Supporting Documents, Reasons for Discharge
 - a. AF Form 3070/UIF, 22 Jan 01
 - b. AF Form 3070/UIF, 26 Feb 01
2. Receipt of Notification Memorandum [REDACTED]