

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>		GRADE A1C	AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>			
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO					
	X					
MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHIC	OTHER	DENY
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						X
						X
						X
						X
ISSUES A94.53, A67.50		INDEX NUMBER A67.10		EXHIBITS SUBMITTED TO THE BOARD		
HEARING DATE 6 MAY 03		CASE NUMBER FD2002-0354		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 <div style="background-color: black; width: 100%; height: 1.2em;"></div>			SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 1.2em;"></div>			
INDORSEMENT			DATE: 23 MAY 03			
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			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0354

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change his RE 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 and change of RE code are denied.

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

Issue. Applicant was discharged for minor disciplinary infractions. Member received two Articles 15, four Letters of Reprimand, and two Letters of Individual Counseling. His misconduct included failure to go on numerous occasions, unlawful entry into another airman's room, dereliction of duty and disobedience of a lawful order, and traffic violations. Member was same age as other airmen who adhered to standards when his misconduct occurred. The applicant didn't submit any additional issues. The Board concluded the misconduct was a significant departure from 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 and that the characterization of the discharge received by the applicant was found to be appropriate.

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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 03 Mar 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 19 Nov 74. Enlmt Age: 17 8/12. Disch Age: 23 3/12. Educ: HS DIPL. AFQT: N/A. A-48, E-68, G-42, M-51. PAFSC: 3A051 - Information Management Journeyman. DAS: 23 Sep 93.

b. Prior Sv: (1) AFRes 04 Aug 92 - 22 Jun 93 (10 months 19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 23 Jun 93 for 4 yrs. Extended 3 Apr 97 for 6 months. Extended 29 Sep 97 for 6 months. Svd: 4 Yrs 8 Mo 10 Das, all AMS.

b. Grade Status: A1C - 18 Dec 97 (Article 15, 18 Dec 97)
SRA - 7 Jun 96
A1C - 23 Oct 94
AMN - 23 Dec 93

c. Time Lost: None.

d. Art 15's: (1) 22 Jan 98, Vacation, F.E. Warren AFB, WY - Article 86. Specification 1: You did, on or about 7 Jan 98, without authority, fail to go at the time prescribed to your appointed place of duty. Specification 2: You did, on or about 8 Jan 98, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 18 Dec 97, F.E. Warren AFB, WY - Article 134. Specification 1: You, were, on or about 30 Nov 97, disorderly. Specification 2: You, did, on or about 30 Nov 97, unlawfully enter the dormitory room of A1C ----. Reduction to A1C, and a suspended forfeiture of \$100.00 pay per month for 2 months. (Appeal/Denied) (No mitigation)

e. Additional: LOC, 26 JAN 98 - Failure to go.
LOR, 24 NOV 97 - Failure to go.
LOR, 14 OCT 97 - Failure to go.

LOR, 26 SEP 97 - Dereliction of duty and disobedience of a lawful order.
LOC, 26 SEP 97 - Failure to go.
LOR, 25 SEP 97 - Failure to go.
AFTT, 21 APR 97 - Traffic violation for being stopped in a lane of traffic.
AFTT, 12 JAN 96 - Traffic violation for speeding.

f. CM: None.

g. Record of SV: 23 Jun 93 - 22 Feb 95 F.E. Warren AFB 4 (Initial)
23 Feb 95 - 22 Feb 96 F.E. Warren AFB 4 (Annual)
23 Feb 96 - 14 Jun 97 F.E. Warren AFB 4 (Annual)

(Discharged from F.E. Warren AFB)

h. Awards & Decs: AFAM W/1 DEV, AFLSAR, AFTR, NDSM, AFOUA W/1 DEV, AFGCM.

i. Stmt of Sv: TMS: (5) Yrs (6) Mos (28) Das
TAMS: (4) Yrs (8) Mos (10) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 19 Aug 02.
(Change Discharge to Honorable and Change the RE Code)

NO ISSUES SUBMITTED.

ATCH

1. DD Form 149.

25NOV02/ia



DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)



FD 2002-0354
25 FEB 1998

MEMORANDUM FOR CC [REDACTED]

FROM: JA

SUBJECT: Legal Opinion: Discharge Under Provisions of AFPD 36-32 and AFI 36-3208, Para 5.49 ([REDACTED], 90 AMDS)

1. **BASIS FOR ACTION:** Administrative discharge action was initiated on 5 Feb 98 against [REDACTED] under the provisions of AFPD 36-32 and AFI 36-3208, paragraph 5.49 (minor disciplinary infractions). The squadron commander recommends separation with a general discharge. He does not recommend probation and rehabilitation. [REDACTED] is not entitled to a board hearing. He has consulted with counsel and submitted a statement on his behalf.

2. **FACTS:** [REDACTED] record shows a pattern of minor disciplinary problems that violate the UCMJ. His misconduct includes numerous failures to go, disorderly conduct, unlawful entry, failure to clean his dormitory room, failure to obey a lawful order, and two traffic tickets. Rehabilitative efforts include establishment of an Unfavorable Information File (UIF), one Article 15 with vacation of suspended punishment, four Letters of Reprimand (LORs), and two Letters of Counseling (LOCs). For more details, see the Notification Memorandum dated 5 Feb 98.

3. **PERSONAL DATA:** [REDACTED] is 23 years old and has served on active duty since 23 Jun 93. His duty title is Information Management Specialist, DAFSC 3A051. He is single and lives on base in a dormitory.

4. **REGULATORY GUIDANCE:**

a. An airman may be subject to discharge based on a pattern of misconduct that consists solely of minor disciplinary infractions. Minor disciplinary infractions include violations of nonpunitive regulations and minor offenses under the UCMJ. Minor disciplinary infractions are normally evidenced by formal or informal counselings, LORs, and Article 15s.

b. The Air Force concept of probation and rehabilitation (P&R) is to give the member a chance to show that he or she is able to meet Air Force standards. The separation authority may offer P&R in any case where there seems to be a reasonable expectation of rehabilitation. The initiating commander and separation authority must consider P&R if the reason for discharge is misconduct (AFI 36-3208, paragraphs 7.2 and 7.4).

5. **FOR THE RESPONDENT:**

a. [REDACTED] is entitled to wear the Air Force Achievement Medal, Air Force Good Conduct Medal, National Defense Service Medal, Air Force Longevity Service Award, and Air Force Training Ribbon. He has fourteen Letters of Appreciation, three Certificates of Training, and one Certificate of Recognition.

b. [REDACTED] was served notice of this action on 5 Feb 98, acknowledged receipt, consulted with counsel and submitted a statement on 13 Feb 98. In his response, [REDACTED] requests you retain him in the Air Force to complete his enlistment. He claims he has been an asset to the four squadrons he has served. [REDACTED] attributes many of his problems to the relationship and recent break-up with his ex-girlfriend. Specifically, he states his Article 15 and UIF were established as a result of this relationship. He claims that he is now on the right path after seeking help from Mental Health. If you decide to discharge [REDACTED], he asks that you consider an honorable discharge so that he will be able to use his educational benefits to start a new life in the civilian community.

6. FOR THE GOVERNMENT:

a. A pattern of minor disciplinary infractions is contrary to the self-discipline required for effective military service. [REDACTED] record shows a history of disciplinary problems that violate the UCMJ. He has demonstrated an inability to comply with even the most basic of military standards—failing to show for work at the time prescribed on seven occasions. His careless disregard for his responsibilities as an Air Force member are well documented and numerous.

b. [REDACTED] minor disciplinary problems demonstrate that he is not fit for military service. A general discharge is warranted when the negative aspects of an airman's service outweigh the positive. The evidence in support of a general discharge is legally sufficient. The squadron commander believes probation and rehabilitation are not appropriate under the circumstances because [REDACTED] has not responded to previous opportunities to bring his conduct within Air Force standards. We concur.

7. OPTIONS: As the separation authority in this case you may:

- a. Retain [REDACTED] on active duty; or
- b. Recommend reinitiation of this action if you believe an under other than honorable conditions discharge is warranted and refer this case to a board of officers; or
- c. Recommend an honorable discharge with or without probation and rehabilitation and forward this package to 20 AF/CC for approval; or
- d. Discharge [REDACTED] with a general discharge with or without probation and rehabilitation.

8. **CONCLUSION AND RECOMMENDATION:** This discharge complies with AFI 36-3208 and the record is legally sufficient to support the discharge of [REDACTED] for minor disciplinary infractions. We concur with the squadron commander and recommend you discharge [REDACTED] with a general discharge without probation and rehabilitation. If you have questions or comments you may contact the undersigned or the action officer, [REDACTED]

[REDACTED]
[REDACTED], USAF
Staff Judge Advocate

Attachment:
Discharge package w/eight tabs



DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)



FD 2002-0354
5 FEB 98

MEMORANDUM FOR [REDACTED]

FROM: 90 AMDS/CC

SUBJECT: Notification Memorandum

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

2. My reasons for this action are:

a. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 22 January 1998, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center. For this conduct, you received a Letter of Counseling (LOC) on 26 January 1998.

b. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 7 January 1998, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center; and

c. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 8 January 1998, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center. For this conduct, your suspended Article 15 punishment was vacated on 22 Jan 98.

d. You were, at or near Francis E. Warren Air Force Base, Wyoming, on or about 30 November 1997, disorderly; and

e. You, did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 30 November 1997, unlawfully enter the dormitory room of [REDACTED]. You received an Article 15 on 18 December 1997 and an Unfavorable Information File (UIF) was established.

f. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 24 November 1997, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center. You received a Letter of Reprimand (LOR) on 24 November 1997.

g. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 10 October 1997, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center. You received an LOR on 14 October 1997.

h. You, who knew of your duties at or near Francis E. Warren Air Force Base, Wyoming, on or about 23 September 1997, were derelict in the performance of those duties in that you failed to clean your dormitory room as directed by your First Sergeant, [REDACTED], as it was your duty to do; and

i. You, having knowledge of a lawful order issued by your First Sergeant, [REDACTED], to wit: to take appropriate action as necessary to ensure that your dormitory room was clean for future dormitory inspections, an order which it was your duty to obey, did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 23 September 1997, fail to obey the same. You received an LOR on 26 September 1997.

j. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 26 September 1997, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center. You received an LOC on 26 September 1997.

k. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 23 September 1997, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 151, Health and Wellness Center. You received an LOR on 25 September 1997.

l. On 21 April 1997, at Francis E. Warren Air Force Base, Wyoming, you received an Armed Forces Traffic Ticket for being stopped in a lane of traffic.

m. On 12 January 1996, at Francis E. Warren Air Force Base, Wyoming, you received an Armed Forces Traffic Ticket for speeding 25 mph in a 15 mph zone.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial 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] of the Area Defense Counsel's Office, Bldg. 292, ext. 3248, on _____ at _____. You may consult civilian counsel at your own expense.

5. 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 workdays after receipt of the notification letter, that date being 10 FEB 98, unless you request and receive an extension for good cause shown. I will send any statements you submit to the separation authority for his consideration.

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. 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 squadron orderly room.

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


Commander, 90th Aerospace Medicine Squadron

Attachments:

1. LOC, dated 26 Jan 98
2. AF Form 366 w/Atch, dated 22 Jan 98
3. AF Form 3070 w/Atchs, dated 18 Dec 97
4. LOR, dated 24 Nov 97
5. LOR, dated 14 Oct 97
6. LOR, dated 26 Sep 97
7. LOC, dated 26 Sep 97
8. LOR, dated 25 Sep 97
9. DD Form 1408, Armed Forces Traffic Ticket, dated 21 Apr 97
10. DD Form 1408, Armed Forces Traffic Ticket, dated 12 Jan 96