

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
[REDACTED]		AIC	[REDACTED]			
TYPE GEN	X PERSONAL APPEARANCE		RECORD REVIEW			
COUNSEL		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	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD				
A49.00	A92.22, 93.32, 94.12	1	ORDER APPOINTING THE BOARD			
		2	APPLICATION FOR REVIEW OF DISCHARGE			
		3	LETTER OF NOTIFICATION			
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE			
1 APR 03	FD2002-0377		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 RATIONAL						
REMARKS Case heard at Washington, D.C. Advise applicant of the decision of the Board.						
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT			
[REDACTED]			[REDACTED]			
INDORSEMENT				DATE: APR 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

FD2002-00177

GENERAL: The applicant appeals for a change to the character of discharge from general to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), at Andrews Air Force Base, Maryland, on April 1, 2003.

The following additional exhibits were submitted at the hearing: Exhibit 5: Applicant's issues; Exhibit 6: College Transcript (9 pgs); Exhibit 7: Character Letter; Exhibit 8: E-mails of Appreciation (55 pgs)

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The requested relief is granted.

ISSUE: The applicant contends her discharge was inequitable because she was not given an appropriate opportunity to pass her CDC exams and because it was an unfair characterization of her service. The applicant had a letter of counseling for financial irresponsibility connected to nearly \$1000 of bad checks; nonjudicial punishment for theft of approximately \$112 of merchandise from AAFES; a letter of reprimand of an overdue cell phone bill in the amount of \$614; a record of individual counseling for having her hair out of compliance with regulations; and a letter of admonition for making unauthorized phone calls using a government authorization code. She also failed her CDC course first in November and then in December 1998. When she was discharged, the applicant was within months of completing her first enlistment. The applicant acknowledged her misconduct and accepted responsibility for her actions. She presented in a credible manner and was sincere in the presentation of her case. In addition, her post service conduct, as evidence by the exhibit she submitted at the hearing, has been exemplary.

Although the applicant did demonstrate poor behavior and did not maintain very good duty performance, the DRB determined that under the circumstances, the applicant's discharge characterization was inequitable. The most serious incident, the theft from AAFES, could not be condoned and was not excused by the DRB. The DRB observed, however, that discharge action was not taken after that incident, nor was it taken until a year after the last incident of misconduct. The unmistakable import of this was that but for the applicant's failure to pass her CDC course, she would not have been discharged for the misconduct. Since the misconduct still could appropriately be used to characterize her service, it was necessary to evaluate the circumstances surrounding her behavior. The applicant was a first term airmen, sent overseas, after never having spent any appreciable amount of time outside her home in a small town in Alabama. Moreover, the misconduct stemmed more from naiveté, youth, and inexperience than anything else. This problem was compounded by the unit's apparent failure to provide the applicant with any financial counseling or any other assistance to help her bring her finances under control. With regard to the CDC failure, the DRB was disturbed by the unit's failure to provide required counseling and assistance for airmen who have trouble with their upgrade training. The absence of action by the unit and her supervisory chain was obvious. In addition, there was evidence the applicant was not permitted to perform her duties on a regular basis as a result of the paternalistic action of male civilian contractors and some male members of the military who routinely refused to let her do the work for which she was trained. In this regard it appeared the unit failed to follow procedural requirements and that this failure impacted the equity of her separation. It also appeared to the DRB that under these circumstances, it would have been unfair for the applicant to bear the burden of a general characterization for the rest of her life when she could have simply left the service honorably in a few months after being denied reenlistment.

CONCLUSIONS: After a through and complete consideration of the information submitted by the applicant, the applicant's personal testimony, and information contained in the record, the DRB concludes that the discharge was not consistent with the procedural and substantive requirements of the discharge regulation.

The Board further concludes that given the nature of the situation, the overall quality of applicant's service is more accurately reflected by an Honorable characterization.

Attachment:
Examiner's Brief

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

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 9 JUN 99 UP AFI 36-3208, para 5.26.3 (Unsatisfactory Performance). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 1 Aug 77. Enlmt Age: 17 10/12. Disch Age: 21 10/12. Educ: HS DIPL. AFQT: N/A. A-56, E-51, G-62, M-26. PAFSC: 2E633 - Telephone Systems Apprentice. DAS: 9 Jul 96.

b. Prior Sv: (1) AFRes 21 Jun 95 - 6 Dec 95 (5 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 7 Dec 95 for 4 yrs. Svd: 3 Yrs 6 Mo 3 Das, all AMS.

b. Grade Status: A1C - 6 Aug 98
AMN - 7 Jun 96

c. Time Lost: None.

d. Art 15's: (1) 3 Aug 97, Kadena AB, Japan - Article 121. You did, on or about 7 Mar 97, steal makeup and lingerie, of a value of about \$111.70, the property of ----- . Suspended reduction to AB, and 45 days extra duty. (No appeal) (No mitigation)

e. Additional: EOC, 29 DEC 98 - CDC Course failure.
EOC, 30 NOV 98 - CDC Course failure.
LOA, 23 APR 98 - Making and/or allowing unauthorized telephone calls using a compromised telephone authorization code.
RIC, 06 MAR 98 - Violation of AFI 36-2903, Table 1.4 line 5, hair out of standards.
LOR, 05 MAR 98 - Financial irresponsibility.
LOC, 06 JAN 97 - Financial irresponsibility.

f. CM: None.

g. Record of SV: 07 Dec 95 - 06 Aug 97 Kadena AB 2 (Initial) REF
07 Aug 97 - 06 Aug 98 Kadena AB 3 (Annual)
07 Aug 98 - 01 Mar 99 Kadena AB 1 (Cmdr Dir) REF

(Discharged from Kadena AB)

h. Awards & Decs: AFOUA, AFTR, AFOSLTR.

i. Stmt of Sv: TMS: (3) Yrs (11) Mos (20) Das
TAMS: (3) Yrs (6) Mos (3) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 30 Aug 02.
(Change Discharge to Honorable)

Issue 1: My name is ----- . I was separated from the United States Air Force on 09 June 99 for failure to pass my CDC exam. I was given a General Discharge under Honorable Conditions. I am asking to have the General Discharge upgraded to an Honorable Discharge. I am asking for this because now that I am older I realize the importance of being educated and I want to be the best that I can be. I don't believe that I can be the best until I have my discharge upgraded. An honorable discharge will help me in my future endeavors. Believe me when I say that I am now taking my education seriously. Receiving a General Discharge has absolutely made an impact on my life. I am 25 years old and have my entire life ahead of me. I ask that you give me a second chance and help me make my future a brighter one. Thank you for your consideration.

ATCH

1. Applicant's Issue.
2. College Transcript.
3. Three Character References.

05DEC02/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

18 May 99

MEMORANDUM FOR 18 WG/CC

FROM: 18 WG/JA

SUBJECT: Legal Review - Administrative Discharge - [REDACTED]
18 CS (PACAF), Kadena AB, Japan

1. BASIS: [REDACTED] 18 CS/CC, initiated this administrative discharge action against AIC [REDACTED] for Unsatisfactory Performance - Failure to Progress in On-the-Job Training. The authority for this action is AFPD 36-32, AFI 36-3208, paragraph 5.26.3 and AFI 36-2201, Attachment 9. The initiating commander has recommended an under honorable conditions (general) discharge without probation and rehabilitation.

2. GOVERNMENT'S EVIDENCE:

a. On or about 16 Nov 98, [REDACTED] received notification that she failed her Career Development Course (CDC) examination with a score of 54; minimum passing score is 65. As a result, an interview was conducted between her, her supervisor, and her training monitor to address her strengths, study habits, and preparation for the CDC exam (Tab 1-1).

b. On or about 21 Dec 98, [REDACTED] failed her CDC examination for the second time with a score of 44; minimum passing score is 65. As a result, 18 CS/CC initiated this discharge action (Tab 1-2).

3. RESPONDENT'S EVIDENCE:

a. The respondent, a 21-year old airman, originally enlisted 7 Dec 95. Her AQE scores are A-56, E-51, G-62, and M-26. This airman has received three (3) evaluation reports. Her EPR, which closed out on 1 Mar 99, rated her an overall 1. The airman is entitled to wear the medals, awards, and ribbons outlined in the commander's recommendation.

b. The respondent consulted military defense counsel and has submitted a statement on her own behalf (Tab 3).

4. ERRORS OR IRREGULARITIES: None noted.

5. DISCUSSION:

a. AFI 36-2201, Attachment 9, authorizes a commander, pursuant to AFI 36-3208, to recommend the involuntary separation of an airman who twice fails his or her Career Development Course (CDC) examination. A second unsatisfactory performance on the CDC examination constitutes a failure to progress in on-the-job training (OJT). AFI 36-3208, paragraph 5.26.4, is the administrative basis for involuntarily separating an airman who fails to progress in OJT. AIC [REDACTED] twice received unsatisfactory scores on her CDC examinations. These two unsatisfactory performances on her CDC examinations therefore constitute a failure to progress in OJT. Because AIC [REDACTED] failed to progress in OJT, her

commander justifiably recommended her involuntary separation from the United States Air Force pursuant to AFI 36-3208, paragraph 5.26.4.

b. AFI 36-3208, paragraph 5.28.2, indicates that an airman who is involuntarily separated for failing to progress in OJT may have his or her service characterized as either honorable or under honorable conditions (general). According to AFI 36-3208, paragraph 1.18.2, a general service characterization is appropriate when significant negative aspects of an airman's conduct outweigh the positive aspects of the airman's military record. In her written response (Tab 3), [REDACTED] argues against characterizing her service as general based on the consequences of her receiving such a service characterization (i.e., denial of benefits under the Montgomery G.I. program) and based on her belief that her conduct has generally met Air Force standards (i.e., her service was honorable). [REDACTED] argument is not persuasive. The decision how to characterize an airman's service is not based on the consequences attending a particular service characterization. Instead, the only relevant inquiry is whether an airman's conduct during his or her current enlistment merits a particular service characterization. [REDACTED] assertion that she will lose Montgomery G.I. benefits if she receives a general discharge is therefore immaterial to the issue at hand -- what service characterization does [REDACTED] deserve?

c. Although the event triggering this discharge action was [REDACTED] second CDC examination failure, her behavior during her entire enlistment is relevant to assessing her service characterization. During her current enlistment, [REDACTED] conduct has not generally met Air Force standards. She has engaged in several instances of significant misconduct. Specifically, [REDACTED] has written several worthless checks that total nearly \$1000, she has shoplifted retail items valued at \$111.70, she has failed to pay a just debt valued at \$613.96, she has failed to adhere to military appearance standards, and she conspired with others to make unauthorized phone calls by using a compromised telephone authorization code. By comparison, [REDACTED] has no obvious positive aspects in her military record. Her EPR ratings have been a mediocre 3, a weak 2, and most recently a 1, which is the lowest possible rating an airman can receive as an index of his or her performance. The manifest and significant negative aspects of [REDACTED] conduct therefore necessarily outweigh the absence of any obvious positive aspects of her military record. Characterization of [REDACTED] service as under honorable conditions (general) is therefore appropriate.

d. I concur with 18 CS/CC that probation and rehabilitation is not appropriate for this airman. The squadron gave [REDACTED] ample opportunity for rehabilitation. [REDACTED] was provided assistance and study sessions to prepare her for her CDC examinations and yet she failed her examination on two occasions. There is no reason to believe that further rehabilitative efforts would be successful.

e. I also concur with 18 CS/CC's recommendation that [REDACTED] remain on Okinawa upon her separation from the United States Air Force. [REDACTED] is married to a member of the 18th Communications Squadron. If [REDACTED] were separated and returned to CONUS, then she could nonetheless return to Okinawa as a military dependent, assuming she receives command sponsorship.

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

- a. Retain [REDACTED] if you consider discharge unwarranted;
- b. Direct a general discharge with or without probation and rehabilitation; or
- c. Recommend that 5 AF/CC direct an honorable discharge with or without probation and rehabilitation.

7. RECOMMENDATION:

I recommend that you direct a general discharge without probation and rehabilitation by signing the attached memorandum.



Attachment:
Case File

1st Ind, 18 WG/JA

MEMORANDUM FOR 18 WG/CC

I concur/~~nonconcur~~ with this recommendation.



This legal opinion is a privileged document and is provided for command use only. It should not be released to the public in general or to the subject of this review in particular.



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

06 MAY 1999

MEMORANDUM FOR [REDACTED]

FROM: 18 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Unsatisfactory Performance-Failure to Progress in On-the-Job Training. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.26.3 and AFI 36-2201, Attachment 9. If my recommendation is approved, your service could be characterized as honorable or general. Upon review of your total record, I am recommending that your service be characterized as general.

2. My specific reasons for recommending discharge are:

a. On or about 16 Nov 98, you received notification that you failed your Career Development Course (CDC) examination with a score of 54; minimum passing score is 65. As a result, an interview was conducted between you, your supervisor and your training monitor to address your strengths, study habits, and preparation for the CDC exam (Tab 1-1).

b. On or about 21 Dec 98, you failed your CDC examination for the second time with a score of 44; minimum passing score is 65. As a result, this discharge was initiated (Tab 1-2).

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.

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 _____ at the Area Defense Counsel at Building 1460 on 10 May 99 at 0930 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 by 11 May 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 already been scheduled for a medical examination in March 1999 at the Physical Examination Section, 18th Medical Group, Kadena AB, Japan.

7. The Privacy Act Statement of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208, is available for your use at the Area Defense Counsel's office.

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



Attachments:

1. Report of Course Examination, 16 Nov 98;
CDC Failure Assessment Worksheet
2. Report of Course Examination, 21 Dec 98
3. Airman's Receipt of Notification Memorandum