

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 AB		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>	
TYPE GEN		PERSONAL APPEARANCE				X RECORD REVIEW	
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES NO							
<div style="width: 100%; text-align: center;">X</div>							
MEMBERS SITTING				VOTE OF THE BOARD			
				HON	GEN	UOTHC	OTHER
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							X
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							X
ISSUES A93.01, A71.01		INDEX NUMBER A67.50		EXHIBITS SUBMITTED TO THE BOARD			
HEARING DATE 03-01-24		CASE NUMBER FD2002-0379		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 RATIONAL							
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 <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 <div style="background-color: black; width: 100%; height: 1.2em;"></div>				DATE: 03-01-24			
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

FD2002-0375

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

The Board finds that neither the evidence of record or that provided by the applicant substantiates an impropriety or inequity that would justify an upgrade of the discharge to honorable.

Issues. Applicant was discharged for misconduct, discreditable involvement with military or civil authorities. He had four Letters of Counseling, a Letter of Reprimand, and an Article 15. His infractions included two failures to go, two failures to maintain his dormitory room, allowing two minors to spend the night in his dormitory room, and stealing from another airman. He was also convicted by Special Court Martial for being absent without leave for 13 days, using marijuana on divers occasions over a 3-month period, and stealing gasoline. Member's only Enlisted Performance Report was rated an overall referral "1", and stated member's actions caused "havoc" in his unit, and his lack of integrity was a "disgrace." At the time of the discharge, applicant waived his right to submit a statement in his own behalf. The Board noted member was counseled repeatedly and given numerous opportunities to improve his behavior but failed to respond to those rehabilitative efforts. He was responsible for his actions of misconduct and was properly held accountable for those. No inequity or impropriety was found in this discharge in the course of the records review.

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

(Former AB) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 14 Jan 97 UP AF 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for Honorable Discharge, Change the Reentry Code, and the Reason and Authority for Discharge.

2. BACKGROUND:

a. DOB: 28 Jun 76. Enlmt Age: 18 6/12. Disch Age: 20 6/12. Educ: HS DIPL. AFQT: N/A. A-70, E-70, G-72, M-86. PAFSC: 3P032 - Law Enforcement Apprentice. DAS: 22 May 95.

b. Prior Sv: (1) AFRes 28 Dec 94 - 10 Jan 95 (13 Days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enld as AB 11 Jan 95 for 4 yrs. Svd: 2 Yrs 0 Mos 4 Das, or which AMS is 1 Yr 7 Mos 18 Das (Ex: 4 Mos 16 Das lost time).

b. Grade Status: AB - 22 MAY 96 (SPCM Order No 2, 16 Oct 96)
AMN - 22 MAY 96 (Article 15, 22 May 96)
A1C - 11 MAY 96
AMN - Unknown

c. Time Lost: 11 Jul 96 - 26 Nov 96 (4 Months 16 Days)

d. Art 15's: (1) 22 May 96, Eglin AFB, FL - Article 121. You did, on or about 4 May 96, steal United States currency, of a value of about \$100.00, the property of Airman ----- Reduction to the grade of AMN, and forfeiture of \$237.00 pay per month for two months. (Appeal granted) (No mitigation)

e. Additional: LOC, 25 JUN 96 - Underage individuals in dormitory room.
LOR, 02 FEB 96 - Late for work.
LOC, 13 DEC 95 - Dormitory room not in inspection order.
LOC, 28 AUG 95 - Late for work.
LOC, 11 AUG 95 - Dormitory room not in inspection order and possession of a missing vacuum cleaner.

f. CM: Special Court Martial Order No. 2, 16 October 1996

CHARGE 1. Article 86. Plea: Guilty. Finding: Guilty.

Specification: Did, on or about 10 Jul 96, without authority, absent himself from his organization, to wit: 96th Security Police

Squadron, located at Eglin AFB, and did remain so absent until he was apprehended on or about 23 Jul 96.

CHARGE II: Article 112a. Plea: Guilty. Finding: Guilty.

Specification 1: Did, somewhere in the continental United States, on divers occasions between 1 May 96 and 23 Jul 96, wrongfully use marijuana.

Specification 2: Did, at or near Cedar City, Utah, on or about 23 Jul 96, wrongfully possess some amount of marijuana.

CHARGE III: Article 121. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Cedar City, Utah, on or about 23 Jul 96, steal gasoline of a value of about \$20.95, the property of ----- . Sentence adjudged on 5 Sep 96: Reduction to the grade of AB, forfeiture of \$200.00 pay per month for six months, and five months confinement.

g. Record of SV: 11 Jan 95 - 10 Sep 96 Eglin AFB 1 (Initial) RIF

(Discharged from Eglin AFB)

h. Awards & Decs: AFTR, NDSM, HSM, AFOUA.

i. Stmt of Sv: TMS: (1) Yr (8) Mos (1) Das
TAMS: (1) Yr (7) Mos (18) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 3 Sep 02.

(Change Discharge to Honorable, Change the Reentry Code, and the Reason and Authority for Discharge.)

ISSUES ATTACHED TO BRIEF

ATCH

1. Applicant's Issues.

5 Dec 92/cr

Members of the Board,

In January of 1995 I fulfilled one of my childhood dreams and joined the United States Air Force. Like my father before me, I desired to serve my country, the United States of America. I could not wait to leave rural Missouri and be trained by the U.S. government.

From day one of basic training, I loved what I was doing and excelled at everything. This continued through training until I completed Security Police and Airbase Ground Defense School.

I was then stationed at Eglin Air Force Base in Florida. As you will notice from review of my records, I got into trouble and made some truly wrong decisions. I blame these actions on myself and myself only. As a result of these poor decisions, I received a general under honorable conditions discharge. Since that time, I have not been in any trouble, showing that I learned from these mistakes. I was young and stupid.

I plan to obtain a waiver so that I may re-enlist. An upgrade of my discharge may make this waiver easier for me to obtain, as well as restore some of the honor that I lost by being young and stupid. I wish nothing but to continue in the service of my country, especially in these turbulent times.

Sincerely,





DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE DEVELOPMENT TEST CENTER (AFMC)
EGLIN AIR FORCE BASE FLORIDA

6 January 1997

MEMORANDUM FOR 96 ABW/CC

FROM: AFDTC/JA

SUBJECT: AFI 36-3208 Legal Review, [REDACTED] 96 SPS (AFMC)

1. **LEGAL SUFFICIENCY:** I have reviewed the attached package in the discharge case of [REDACTED] (Respondent). I find it legally sufficient to support a discharge under AFI 36-3208, Section H (Misconduct), paragraph 5.50.1, Discreditable Involvement with Military or Civilian Authorities.

2. **INITIATION OF ACTION:** On 13 Dec 96, [REDACTED] 96 SPS/CC, notified respondent he was recommending the airman be discharged for Discreditable Involvement with Military or Civilian Authorities under AFI 36-3208, paragraph 5.50.1. [REDACTED] recommends respondent receive a general discharge without probation and rehabilitation (P&R).

3. **RESPONDENT'S SUBMISSION:** Respondent, a 20 year old security policeman, enlisted in the Air Force on 11 Jan 95. He was assigned to his current unit on 22 May 95. On 30 Dec 96, he submitted a written response stating he was provided military counsel and waiving his right to provide statements for your consideration.

4. **DISCUSSION:**

a. Basis for Discharge: Respondent engaged in a pattern of misconduct since 11 Aug 95. This pattern of misconduct consisted of nine incidents, including two failures to maintain his dormitory room in inspection order, two failures to go, one incident of allowing minors to stay overnight in his dormitory room, two larcenies, use of marijuana, and being absent without leave. For these incidents, respondent received four Letters of Counseling (LOCs), one Letter of Reprimand (LOR), one Article 15 and conviction by Special Court-Martial. Copies of the supporting documents are attached to the notification letter. In light of the various disciplinary infractions, there is sufficient basis for discharge.

b. Appropriateness of Discharge: Respondent's pattern of misconduct, as set forth in paragraph 4(a) above, does not support continued military service. It demonstrates an unwillingness to comply with standards set forth by the Air Force. Because he failed to maintain the minimum standards expected of an airman, respondent should be discharged.

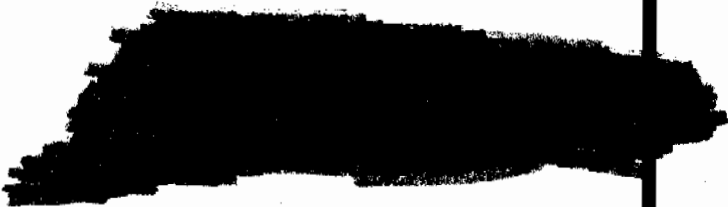
c. Characterization of Service: Chapter 1, Section B, of AFI 36-3208, provides that characterization of service as honorable is appropriate when the member's service has been so meritorious that any other characterization is inappropriate. A general discharge is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. Characterization as under other than honorable conditions (UOTHC) is appropriate when the reasons for separation include a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. Although a UOTHC discharge might be appropriate because of the seriousness of the misconduct in this case, I believe that a general discharge is the most appropriate characterization.

d. Probation & Rehabilitation (P&R): Respondent is eligible for P&R, under AFI 36-3208, Chapter 7. However, this case is not an appropriate one for P&R. P&R is limited to deserving cases, including those where the airman has demonstrated a potential to serve satisfactorily, has the capacity to be rehabilitated for continued military service or for 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. Past rehabilitative efforts, as set forth in paragraph 4(a), have not worked. Consequently, any further opportunities are unwarranted.

5. **OPTIONS**: As the Special Court-Martial Convening Authority, you may:

- a. Retain respondent;
- b. Approve separation with a general discharge with, or without, P&R;
- c. Return the file to the unit with a recommendation to reinitiate the case with a recommendation for a UOTHC discharge; or,
- d. Forward the file to the General Court-Martial Convening Authority with a recommendation for an honorable discharge with, or without, P&R.

6. **RECOMMENDATION**: Approve separation with a general discharge, without P&R.



I have reviewed the attached discharge package and the foregoing recommendation. I concur in the recommendation.

[REDACTED]

Attachment:
Case File (Harles)



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 96TH AIR BASE WING (AFMC)
EGLIN AIR FORCE BASE FLORIDA

MEMORANDUM FOR [REDACTED] 96 SPS

13 Dec 96

FROM: 96 SPS/CC

SUBJECT: Notification Memorandum

I am recommending your discharge from the United States Air Force for Discreditable Involvement With Military or Civil Authorities. The authority for this action is AFPD 36-32 and AFI 36-3208, Section H, (Misconduct) paragraph 5.50.1. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

My reasons for this action are:

a. You did, on or about 10 Jul 96, without authority absent yourself from the 96 Security Police Squadron, located at Eglin AFB, and did remain so absent until apprehended on or about 23 Jul 96; did, somewhere in the continental United States, on divers occasions between 1 May 96 and 23 Jul 96, wrongfully use and possess marijuana; did, at or near Cedar City, Utah on or about 23 Jul 96, steal gasoline of value of about \$20.95, the property of Highcountry Shell, for which you were tried and convicted by special court-martial on 5 Sep 96.

b. On 12 Jun 96, you had two underage individuals in your dorm room, for which you received a Letter of Counseling (LOC), dated 25 Jun 96.

c. On or about 4 May 96, you stole United States Currency, from a fellow airman, for which you received an Article 15, dated 22 May 96, with a reduction in grade to AB and forfeiture of \$437.00 pay per month for two months.

d. On or about 31 Jan 96, you failed to report to duty, for which you received a Letter of Reprimand.

e. On or about 22 Nov 95, your dorm room was found to be in disarray. The same incident occurred over the next four days, for which you received a LOC, dated 13 Dec 95.

f. On or about 26 Aug 95, you failed to report to duty on time, for which you received a LOC, dated 28 Aug 95.

g. On or about 11 Aug 95, your dorm room was in disarray, for which you received a LOC, dated 11 Aug 95.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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.

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] on 96 at [REDACTED]. You may consult civilian counsel at your own expense.

You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 23 Dec 96 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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.

You have been scheduled for a medical examination. You must report to the 96th Medical Group, Physical Exam Section, at 0830 on 5 Dec 96 for the examination. You must be in uniform for this appointment.

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 96 SPS Unit Personnel Office.

[REDACTED]

Attachments:

1. Special Court - Martial Order #2, dtd 16 Oct 96
2. Letter of Counseling (LOC), 25 Jun 96
3. AF Form 3070, dtd 22 May 96 w/atch
4. Letter of Reprimand, dtd 2 Feb 96
5. Letter of Counseling (LOC), 13 Dec 95
6. LOC, dtd 28 Aug 95
7. LOC, dtd 11 Aug 95-