

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 	GRADE SRA	AFSN/SSAN
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TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: left; padding: 2px;">COUNSEL</th> </tr> <tr> <td style="width: 50%; padding: 2px;">YES</td> <td style="width: 50%; padding: 2px;">NO</td> </tr> <tr> <td style="text-align: center; padding: 2px;"></td> <td style="text-align: center; padding: 2px;">X</td> </tr> </table>	COUNSEL		YES	NO		X	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
COUNSEL								
YES	NO							
	X							

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

ISSUES A01.00 A95.00	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
HEARING DATE 27 MAR 03	CASE NUMBER FD2002-0392	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
***Change reason and authority to Secretarial Authority.**

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 	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT	DATE:
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

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

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 is denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant was discharged for minor disciplinary infractions. During the period of enlistment under review, he received three Letters of Reprimand. Member's misconduct included an altercation with another NCO, civil arrest for assaulting a civilian female, and civil arrest for driving erratically and possessing a concealed loaded weapon without a permit. In the previous period of enlistment, member received an Article 15 for drinking alcohol under the legal age, and a Letter of Reprimand for using derogatory language toward another airman. The Board opined that there was sufficient misconduct in the current enlistment to warrant a discharge, and that through these administrative actions, the applicant had ample opportunities in the current enlistment to change his negative behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board could find no inequity or impropriety that would warrant an upgrade.

If the applicant can provide additional documented information to substantiate an issue, he should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise this right to a personal appearance hearing, the applicant should be prepared to provide the Board with factual evidence of the inequity or impropriety and any exemplary post-service accomplishments as well as any contributions to the community.

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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 2 Nov 01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 18 Sep 78. Enlmt Age: 18 1/12. Disch Age: 23 1/12. Educ: HS DIPL. AFQT: N/A. A-74, E-81, G-72, M-73. PAFSC: 2A656 - Aircraft Electrical & Environmental Systems Journeyman. DAS: 29 May 01.

b. Prior Sv: (1) AFRes 15 Nov 96 - 27 May 97 (6 months 13 days) (Inactive).

(2) Enlisted as A1C 28 May 97 for 4 yrs. Svd: 3 yrs 1 month 8 days, all AMS. SRA - 28 Sep 99. EPRs: 5,4(REF),5.

ART 15: (1) 25 Mar 99, Cannon AFB, NM - Article 92. You, who knew of your duties, at or near Clovis, New Mexico, on or about 11 Mar 99, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while under the legal drinking age of 21, as it was your duty to do. Suspended reduction to Airman, and 14 days extra duty. (No appeal) (No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 7 Jul 00 for 6 yrs. Svd: 1 Yr 3 Mos 26 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 10 OCT 01 - Civil arrest for driving erratically and possessing a concealed loaded weapon without a permit.

LOR, 10 OCT 01 - Civil arrest for assaulting a civilian female.

LOR, 07 MAY 01 - Involved in an altercation with another NCO.

LOR, 01 FEB 00 - Using derogatory language toward another airman.

f. CM: None.

g. Record of SV: 16 Apr 00 - 3 Apr 01 Kunsan AB 4 (CRO)

(Discharged from Eglin AFB)

h. Awards & Decs: AFAM, AFLSAR, AFTR, AFGCM.

i. Stmt of Sv: TMS: (4) Yrs (11) Mos (19) Das
TAMS: (4) Yrs (5) Mos (6) Das

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

NO ISSUES SUBMITTED.

ATCH
None.

17DEC02/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR ARMAMENT CENTER (AFMC)
EGLIN AIR FORCE BASE, FLORIDA

OCT 26 2001

MEMORANDUM FOR 96 ABW/CC

FROM: AAC/JA

SUBJECT: Legal Review, AFI 36-3208 Administrative Discharge, [REDACTED]
[REDACTED] 40 FTS (AFMC)

1. **LEGAL SUFFICIENCY:** I reviewed the attached discharge package concerning [REDACTED] (respondent) and find it legally sufficient to support an administrative discharge action for minor disciplinary infractions under AFI 36-3208, chapter 5, section H (misconduct), paragraph 5.49.

2. **INITIATION OF ACTION:** On 18 Oct 01 [REDACTED] notified the respondent that he was recommending the respondent be administratively discharged for minor disciplinary infractions under AFI 36-3208, chapter 5, section H, paragraph 5.49. [REDACTED] recommends that the respondent receive a general discharge without probation and rehabilitation (P&R). The respondent is not entitled to an administrative discharge board.

3. **EVIDENCE CONSIDERED FOR THE GOVERNMENT:** [REDACTED] failed to refrain from consuming alcoholic beverages while under the age of twenty-one; used derogatory language toward another airman; started a fight with an NCO; assaulted a civilian female outside a night club in Destin, Florida; and was arrested by civilian authorities for driving erratically and possessing a concealed loaded weapon without a permit. For these offenses, he received four Letters of Reprimand (LORs) and an Article 15. Copies of the supporting documents are attached to the notification memorandum. (Tab 1)

4. **EVIDENCE CONSIDERED FOR THE RESPONDENT:** After consulting counsel, [REDACTED] submitted a written statement. (Tab 3). In his statement [REDACTED] expresses his desire to continue his enlistment and to have a successful career. He places his future and career in your hands. However, if you feel a discharge is warranted, [REDACTED] requests that his service be characterized as honorable.

5. **DISCUSSION:**

a. Separation Criteria: [REDACTED] conduct reflects poorly upon himself and the Air Force. He has demonstrated that he cannot follow basic military rules and regulations by using racial slurs toward another military member and by trying to fight with a senior ranking military member. Even though [REDACTED] was advised this behavior was not appropriate, especially in the military, he exhibited the same inappropriate behavior in the civilian community. According to [REDACTED] he assaulted a female for behaving in same manner he has behaved. He also was arrested for reckless driving and carrying a concealed weapon. These two civilian offenses are being handled by local authorities, but are documented by LORs. They are properly considered as the basis of this discharge action. This file is legally sufficient to support discharge under AFD 36-22 and AFI 36-3208, chapter 5 section H, paragraph 5.49 for minor disciplinary infractions.

b. Character of Discharge: Pursuant to AFD 36-22 and AFI 36-3208, chapter 5 section H, paragraph 5.49, an airman may be administratively discharged if he has engaged in a pattern of misconduct consisting solely of minor disciplinary infractions. Because the basis is misconduct, discharge under paragraph 5.49 can be

characterized as under other than honorable conditions (UOTHC), general, or honorable. Only the General Courts-Martial Convening Authority can approve a UOTHC or honorable service characterization for misconduct. A UOTHC discharge is appropriate when there has been a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. A general discharge is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's performance of duty outweigh positive aspects of the airman's military record. An honorable discharge would be appropriate when the quality of the airman's service generally has met Air Force standards of acceptable conduct and duty performance or the member's service has been so meritorious that any other characterization would be clearly inappropriate.

c. Characterization of Respondent's Service: An honorable discharge would be inappropriate, as it would, for all intents and purposes, excuse [REDACTED] misconduct. However, considering [REDACTED] rank, age, and length of service, I do not recommend he receive a UOTHC, which is the worse type of administrative discharge authorized. Without a doubt, [REDACTED] pattern of misconduct is a significant negative aspect of his duty performance that outweighs any positive aspects of his military record. Therefore, I concur with [REDACTED] recommendation that [REDACTED] receive a general discharge.

d. Probation & Rehabilitation (P&R): The respondent is eligible for P&R under AFI 36-3208, Chapter 7. Probation and Rehabilitation 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 maintaining good order and discipline in the Air Force. The respondent has been given numerous opportunities to correct his behavior, and he has failed to do so. Consequently, P&R is not recommended in this case.

6. **OPTIONS**: As the Special Courts-Martial Convening Authority in this case, you have the following options:

- a. Disapprove the discharge action and retain the respondent;
- b. Approve the discharge action and separate the respondent 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 discharge package to the General Courts-Martial Convening Authority, along with your recommendation that the respondent receive an honorable discharge, with or without P&R.

7. **RECOMMENDATION**: For the reasons set forth above, I recommend the respondent be discharged from the United States Air Force under AFPD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.49, with a general discharge, without P&R.

[REDACTED]

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



Attachment:
Case File (Young)



DEPARTMENT OF THE AIR FORCE
40TH FIGHTER TEST SQUADRON (ACC)
EGLIN AIR FORCE BASE, FLORIDA

MEMORANDUM FOR [REDACTED] 40 FTS (AFMC)

18 Oct 01

FROM: 40 FTS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct, specifically Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.49. If my recommendation is approved, your service will 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. On 11 March 99, you failed to refrain from consuming alcoholic beverages while under the age of twenty-one. For this incident, you received an Article 15, dated 19 March 99.

b. On 20 Dec 99, you used derogatory language toward another airman. For this incident, you received a Letter of Reprimand with a UIF, dated 1 Feb 00.

c. On 28 Apr 01, you were involved in an altercation with another NCO. For this incident, you received a Letter of Reprimand with a UIF, dated 7 May 01.

d. On 5 Aug 01, you were detained by civilian authorities for assaulting a civilian female outside a nightclub in Destin, Florida. For this incident you received a Letter of Reprimand with a UIF, dated 10 Oct 01.

e. On 9 Oct 01, you were arrested by civilian authorities in Gulf Breeze, Florida for driving erratically and possessing a concealed loaded weapon without a permit. For this incident, you received a Letter of Reprimand with a UIF, dated 10 Oct 01.

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. Special pay, bonuses, or education assistance funds may be subject to recoupment.

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] at building 451, 882-4185, on 19 Oct 01 at 1100 hours. 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 within 3 workdays from today 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 on your own behalf, your failure will constitute a waiver of your right to do so.
7. You will complete a medical examination with the 96th Medical Group, physical examination section on 22 Oct 01, at 0715 hours.
8. You have been scheduled for an appointment with the 96th Mission Support Squadron, separation section, on 22 Oct 01, at 1400 hours.
9. Immediately after completion of your 96th Mission Support Squadron separation section briefing, report to the 96th Traffic Management Office with your completed AFDTC Form 4134 or LGTT Office Form B133. If you have a TMO pickup, it must be before 26 Oct 01.
10. You are required to receive a briefing from the Family Support Center prior to your separation. You have been scheduled to receive your Transition Assistance Management Program (TAMP) briefing on 23 Oct 01, at 0800 hours.
11. 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 unit orderly room.



Attachments:

1. Supporting Documents
 - 1a. Art 15, dated 19 Mar 99
 - 1b. LOR/UIF, dated 1 Feb 00
 - 1c. LOR/UIF, dated 7 May 01
 - 1d. LOR/UIF, dated 10 Oct 01
 - 1e. LOR/UIF, dated 10 Oct 01
2. Airman's Acknowledgment