

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AMN	AFSN/SSAN [REDACTED]			
TYPE	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 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 26 FEB 03		CASE NUMBER FD2002-0397		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, 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]			
INDORSEMENT				DATE: 26 FEB 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

FD02-0397

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

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

FINDINGS: Upgrade of discharge is denied.

The board finds that 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 received an Article 15 for failure to go and feigning a illness for the purpose of avoiding work. In addition, he also received a Letter of Reprimand for failure to go and two Letters of Counseling for failure to go and leaving his place of duty without proper authority and dereliction of duty. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the 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.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 20 Mar 95 UP AFI 36-3208, para 5.49 & 5.52.3 (Misconduct - Minor Disciplinary Infractions & Other Serious Offenses). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 15 Jul 72. Enlmt Age: 20 9/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-96, E-82, G-92, M-58. PAFSC: 6F031 - Financial Management Apprentice. DAS: 14 Feb 94.

b. Prior Sv: (1) AFRes 13 May 93 - 6 Oct 93 (4 Mos 24 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 7 Oct 93 for 4 yrs. Svd: 1 Yr 5 Mos 14 Das, all AMS.

b. Grade Status: AMN - 1 Mar 95 (Article 15, 1 Mar 95)

c. Time Lost: None.

d. Art 15's: (1) 1 Mar 95, Tyndall AFB, FL - Article 85 & 115. You did, on or about 23 Feb 95, without authority, fail to go at the time prescribed to your appointed place of duty. You did, on or about 23 Feb 95, for the purpose of avoiding your work in the Accounting and Finance Office, feign illness. Reduction to the grade of AMN, and suspended forfeiture of \$100.00 pay per month for 2 months.
(No appeal) (No mitigation)

e. Additional: LOR, 23 NOV 94 - Failed to go.
LOC, 13 JUN 94 - Failed to go.
LOC, 14 MAR 94 - Leaving place of duty without proper authority and dereliction to duty.

f. CM: None.

g. Record of SV: None.

(Discharged from Tyndall AFB)

h. Awards & Decs: AFTR, SAEMR, NDSM.

i. Stmt of Sv: TMS: (1) Yr (10) Mos (8) Das
TAMS: (1) Yr (5) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 11 Sep 02.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. Letter of Recommendation.
2. Letter from Senator [REDACTED]
3. Letter from Representative [REDACTED]

17 Dec 02/cr

DEPARTMENT OF THE AIR FORCE
325th Fighter Wing (AETC)
Tyndall Air Force Base Florida



17 MAR 1995

MEMORANDUM FOR CC

FROM: JA

SUBJECT: Legal Review of Administrative Discharge Under AFI 36-3208, Chapter 5, Section H, ([REDACTED])

1. BASIS: On 9 Mar 95 the 325 CPTS/CC initiated action to administratively discharge [REDACTED] from the service according to AFI 36-32 and under the provisions of AFI 36-3208, Chapter 5, Section H, paragraphs 5.49 and 5.52.3, for a pattern of minor disciplinary infractions and the commission of a serious offense.

2. SPECIFIC REASON: The reason for the commander's discharge recommendation is that [REDACTED] engaged in misconduct consisting of a pattern of minor disciplinary infractions and the commission of a serious offense. Specifically:

a. He did, on or about 11 March 1994, without authority, leave his appointed place of duty, to wit: building 662, suite 267. This was his first incident, and he received a Letter of Counseling on 14 March 1994.

b. He did, on or about 13 June 1994, without authority, fail to go at the prescribed time to his appointed place of duty at the appointed time, to wit: building 662, suite 267 at 0600 hours. This was his second incident for which he received a second Letter of Counseling on 13 June 1994.

c. He did, on or about 23 November 1994, without authority, fail to go at the prescribed time to his appointed place of duty, to wit: building 662, suite 267 at 0600 hours. This was his third incident, and he received a Letter of Reprimand on 23 November 1994.

d. He did, on or about 23 February 1995, without authority, fail to go at the prescribed time to his appointed place of duty, to wit: building 662, suite 267 at 0600 hours. Additionally, he did, on or about 23 February 1995, for the purpose of avoiding his work in the Accounting and Finance Office, feign illness. These combined comprised his fourth incident, and he received an Article 15, with a reduction to the grade of airman (new DOR 1 Mar 95), and a suspended forfeiture of \$100.00 per month for two months.

3. **PERSONAL INFORMATION:** The respondent is a 22 year old Accounting Technician. He enlisted on 7 Oct 93 and his current enlistment began on 7 Oct 93, for a term of four years. He has one year and five months of active service. He has not received an Enlisted Performance Report. He is authorized to wear the National Defense Service Medal, the Small Arms Expert Ribbon (Rifle), and the Air Force Training Ribbon. [REDACTED] consulted legal counsel and declined to submit a statement concerning this action.

4. **DISCUSSION:** The case file is legally sufficient subject to inclusion in the file of a report of medical examination showing the respondent is qualified for worldwide duty. AFI 36-3208, paragraph 5.49, authorizes the discharge of airmen who engage in a pattern of misconduct consisting of minor disciplinary infractions. Additionally, paragraph 5.52.3 authorizes the discharge of airmen who commit a serious offense provided a punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-Martial (MCM). The MCM authorizes a maximum penalty of a dishonorable discharge, confinement for 1 year, and total forfeitures of all pay and allowances for malingering. [REDACTED] misconduct consisted of absenting himself without authority, failure to go and malingering, the last of which is a serious offense. For this misconduct he received two Letters of Counseling, one Letter of Reprimand and an Article 15. These incidents fully satisfy the requirements under the instruction and justify a discharge with a general service characterization. The failure of past rehabilitative attempts indicates that additional probation and rehabilitation efforts are inappropriate for this airman.

5. **OPTIONS:** As discharge authority you may:

- a. Direct retention; or
- b. Direct discharge with a general service characterization either with or without probation and rehabilitation, or
- c. Forward this file to 19 AF/CC with an recommendation for an honorable discharge either with or without probation and rehabilitation.

6. **RECOMMENDATION:** Recommend you direct discharge with a general service characterization without probation and rehabilitation.

[REDACTED] USAF
Staff Judge Advocate

FD2002-0397

DEPARTMENT OF THE AIR FORCE

325th Comptroller Squadron (AETC)

Tyndall Air Force Base Florida



MEMORANDUM FOR: [REDACTED]

9 Mar 95

FROM: CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for misconduct, according to AFPD 36-32 and under the provisions of AFI 36-3208, paragraphs 5.49 and 5.52.3. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reason for this action is your misconduct, consisting of a pattern of minor disciplinary infractions and the commission of a serious offense. Specifically:
 - a. You did, at or near Tyndall Air Force Base, Florida, on or about 11 March 1994, without authority, leave your appointed place of duty, to wit: building 662, suite 267. This was your first incident, and as such you received a Letter of Counseling on 14 March 1994 (Atch 1-1).
 - b. You did, at or near Tyndall Air Force Base, Florida, on or about 13 June 1994, without authority, fail to go at the prescribed time to your appointed place of duty at the appointed time, to wit: building 662, suite 267 at 0600 hours. This was your second incident, and as such you received a second Letter of Counseling on 13 June 1994 (Atch 1-2).
 - c. You did, at or near Tyndall Air Force Base, Florida, on or about 23 November 1994, without authority, fail to go at the prescribed time to your appointed place of duty, to wit: building 662, suite 267 at 0600 hours. This was your third incident, for which you received a Letter of Reprimand on 23 November 1994 (Atch 1-3).
 - d. You did, at or near Tyndall Air Force Base, Florida, on or about 23 February 1995, without authority, fail to go at the prescribed time to your appointed place of duty, to wit: building 662, suite 267 at 0600 hours. Additionally, you did, at or near Tyndall Air Force Base Florida, on or about 23 February 1995, for the purpose of avoiding your work in the Accounting and Finance Office, feign illness. These combined, comprise your fourth incident, and as such you received an Article 15, with a reduction to the grade of airman (new DOR 1 Mar 95), and suspended forfeiture of \$100.00 per month for two months (Atch 1-4).

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. If you are discharged, you will be ineligible for re-enlistment 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 [REDACTED] at Bldg 1005 on 10 MAR 95 at 1000 hrs. 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 within 3 workdays 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. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of the AFI 36-3208 is available for your use in the orderly room.

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

[REDACTED] USAF
Commander

Attachments:

- 1-1. LOC, 14 Mar 94
- 1-2. LOC, 13 Jun 94
- 1-3. LOR, 23 Nov 94
- 1-4. Article 15, finalized 7 Mar 95
- 2. Memorandum of Acknowledgment