

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <b>[REDACTED]</b>	GRADE <b>AMN</b>	AFSN/SSAN <b>[REDACTED]</b>
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TYPE	<input checked="" type="checkbox"/> <b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES		
NO		
	<b>X</b>	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					<b>X</b>
					<b>X</b>
					<b>X</b>
					<b>X</b>
					<b>X</b>

ISSUES <b>A94.05</b>	INDEX NUMBER <b>A67.10</b>	EXHIBITS SUBMITTED TO THE BOARD				
		<b>1</b>	ORDER APPOINTING THE BOARD			
		<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE			
		<b>3</b>	LETTER OF NOTIFICATION			
		<b>4</b>	BRIEF OF PERSONNEL FILE			
					COUNSEL'S RELEASE TO THE BOARD	
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE	
		TAPE RECORDING OF PERSONAL APPEARANCE HEARING				
HEARING DATE <b>8 MAY 03</b>	CASE NUMBER <b>FD2002-0410</b>					

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.**  
  
**Applicant also submitted a DD Form 149. His records will be forwarded to the Board for Correction of Military Records.**

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT

INDORSEMENT	DATE: <b>8 MAY 03</b>
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<b>TO:</b> SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

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

The applicant appeared and testified before the Discharge Review Board without counsel at Andrews AFB, MD, on 8 May 2003.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's Contentions

Exhibit 6: Corrected copy, 31 Mar 03 letter from [REDACTED]

Exhibit 7: Character letter from [REDACTED]

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 neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

**ISSUE:** Applicant contends that his discharge was too harsh because the reason he received an Article 15 was because of a power surge. He also attached letters of recommendation attesting to the fact that he was a decent Airman and excelled in his job. The record indicates the applicant received an Article 15 for failure to go and with intent to deceive, make an official statement, which was totally false. He also received a Vacation action on his suspended reduction to Airman because of a failure to go. In addition, he received three Letters of Reprimand, three Letters of Admonishment, two Letters of Counseling, and an Memorandum for Record for failure to go, violation of AFI 36-2903, wearing substandard uniform combination, being late for class four times, violating the chain of command twice, and sleeping on duty twice. The board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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]

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 29 Mar 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 16 Jul 81. Enlmt Age: 18 8/12. Disch Age: 20 8/12. Educ: HS DIPL. AFQT: N/A. A-59, E-62, G-72, M-72. PAFSC: 1C631 - Space Systems Operations Apprentice. DAS: 22 Dec 00.

b. Prior Sv: (1) AFRes 16 Mar 00 - 28 Mar 00 (13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 29 Mar 00 for 6 yrs. Svd: 2 Yrs 0 Mo 1 Das, all AMS.

b. Grade Status: AMN - 15 Jan 02 (Article 15, Vacation, 8 Mar 02)  
A1C - 15 May 00

c. Time Lost: None.

d. Art 15's: (1) 8 Mar 02, Vacation, Schriever AFB, CO - Article 86. You, did, on or about 14 Feb 02, fail to go at the time prescribed, to your appointed place of duty. Reduction to Amn. (No appeal) (No mitigation)

(2) 15 Jan 02, Schriever AFB, CO - Article 86. You, did, on or about 18 Dec 01, without authority, fail to go at the time prescribed to your appointed place of duty. Article 107. You, did, on or about 19 Dec 01, with intent to deceive, make to Captain -----, an official statement, to wit: "there must have been a power outage during the evening because my clocks were blinking" or words to that effect, which statement was totally false, and was then known by you to be so false. Suspended reduction to Amn, and forfeiture of \$125.00 per month for 2 months. (No appeal) (No mitigation)

e. Additional: LOR, 19 FEB 02 - Failure to go.  
LOR, 17 FEB 02 - Violation of AFI 36-2903 (Hair).  
LOA, 14 DEC 01 - Wearing substandard uniform combination.  
LOR, 14 DEC 01 - Late to class.  
LOA, 14 DEC 01 - Violating chain of command.  
LOC, 27 NOV 01 - Late for work.  
MFR, 09 NOV 01 - Avoiding chain of command.

LOA, 09 NOV 01 - Sleeping in class.  
LOC, 28 OCT 01 - Sleeping on duty.

f. CM: None.

g. Record of SV: 29 Mar 00 - 30 Nov 01 Schriever AFB 2 (Initial)REF

(Discharged from Schriever AFB)

h. Awards & Decs: AFTR, AFOUA, BS/MB.

i. Stmt of Sv: TMS: (2) Yrs (0) Mos (14) Das  
TAMS: (2) Yrs (0) Mos (1) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 26 Sep 02.  
(Change Discharge to Honorable)

Issue 1: I believe my discharge to be improper for the simple fact that I received an article 15 for missing a scheduled appointment with my CO. He said I was lying about a power surge that occurred in my apartment, when in fact I was being truthful. The problem was that the power surge set my alarm back to 12:00, and therefore I did not wake up at the time I had set it for. I tried to verify the fact that there was a power surge with the utility company, but they said that they only have record of power outages, not power surges. They stated that a surge could have happened by having to (sic) many things plugged into one outlet. Unfortunately, I did have my TV, DVD, alarm, and computer all connected to the one outlet in my room.

Issue 2: I have attached letters of recommendation showing that I was a not only a decent Airman, but I excelled at my job and helped the new operators become better at there (sic) job by sharing my knowledge. I am currently trying to pursue a career and finish my college education, and I am finding it very difficult because of my discharge. If there is anything you could do I would greatly appreciate it. Thank you.

**ATCH**

1. Five Character References.
2. DD Form 149.

23DEC02/ia

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## DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)

## MEMORANDUM FOR 50 SW/CC

FROM: 50 SW/JA

210 Falcon Parkway, Ste 2104  
Schriever AFB CO 80912-2104SUBJECT: Legal Review of AFI 36-3208, Discharge of Amn [REDACTED]  
[REDACTED]

1. I have reviewed the administrative discharge action pertaining to Amn [REDACTED] (respondent [REDACTED]) for legal sufficiency. There has been substantial compliance with the applicable substantive and procedural provisions of AFI 36-3208. This action was initiated on 18 Mar 02 to administratively separate respondent from the United States Air Force pursuant to AFI 36-3208, chapter 5, section H, paragraph 5.49, misconduct (minor disciplinary infractions). The statutory basis for this action is 10 U.S.C. § 1169 and a legal review is required by AFI 36-3208, paragraph 6.12.1.
2. The recommendation for discharge is based upon the information contained in paragraph 2 of the notification memorandum. The notification memorandum alleges that Amn [REDACTED] was found sleeping on duty, failed to go at the time prescribed on more than one occasion, deliberately asked to be released early from Airman Professional Seminar when he was previously denied approval from [REDACTED] and [REDACTED], circumvented his chain of command in order to elude additional SFS augmentee duty, failed to comply with AF instructions, and failed to go to a mandatory appointment. In my opinion, there is sufficient misconduct in the current enlistment to form a basis for discharge.
3. The respondent is 20 years old and enlisted on 29 Mar 00 for a term of 6 years, and has a total of 2 years active service. After consulting with the Area Defense Counsel, the respondent has waived his rights to submit statements for you to consider.
4. Errors and Irregularities: There are no errors or irregularities that prejudice respondent or deprive him of any substantial rights.
5. As Discharge Authority, you are empowered to:
  - a. Approve the discharge and issue a general discharge certificate;
  - b. Recommend an honorable discharge and forward the case file to 14 AF/CC for disposition;

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c. Approve a general discharge, but suspend its execution for a period of up to one year for probation and rehabilitation; or

d. Order respondent to be retained in the Air Force.

6. Based on the misconduct, from the current enlistment referred to above, the recommended service characterization of a general discharge is appropriate. In addition, there does not seem to be any reasonable expectation of rehabilitation for the respondent that would warrant probation and rehabilitation. He has been given numerous opportunities to change his conduct with little improvement.

7. I recommend you direct respondent be separated from the United States Air Force with a general discharge without probation and rehabilitation and that paragraph 5.49 be cited as the basis for this action. A general discharge is appropriate when significant negative aspects of the member's conduct outweigh positive aspects of his military record. AFI 36-3208, paragraph 1.18.2. Moreover, respondent's history of misconduct shows his resistance to comply with the law and Air Force Standards. Probation and rehabilitation is inappropriate because of respondent's continued and repeated improper conduct despite attempts at correction.

8. Please contact me at 567-5050, if you have any questions or need additional information.



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## DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)

MEMORANDUM FOR AMN [REDACTED]

18 MAR 2002

FROM: 3 SOPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct (minor disciplinary infractions). The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as general.

2. My reasons for this action are:

a. On or about 27 Oct 01 you were found sleeping on the couch by [REDACTED] the Mod 20 break room. Sleeping on the job is in direct violation of Article 92, Uniform Code of Military Justice (UCMJ). For this misconduct you received a Letter of Counseling (LOC) dated 28 Oct 01. (atch 1a)

b. On or about 6 Nov 01 you were found sleeping on duty for the second time. For this misconduct you received a Letter of Admonition (LOA) dated 9 Nov 01. (atch 1b)

c. On or about 6 Nov 01 you were informed that you had been chosen for Security Forces (SFS) augmentee duty. You then blatantly avoided your chain of command by asking Capt [REDACTED] who is not in your chain of command, if you could be put on the Guardian Challenge Team in order to get out of SFS augmentee duty. For this misconduct you received an LOC dated 9 Nov 01. (atch 1c)

d. On or about 27 Nov 01 you failed to go at the time prescribed, 0640 hours, to your appointed place of duty. You did not show up until 0900 hours. For this misconduct you received an LOC dated 27 Nov 01. (atch 1d)

e. On or about 29 Nov 01 you reported to your appointed place of duty in a uniform that was excessively wrinkled, had no name tag and had improperly displayed ribbons. Failing to comply with AFI 36-2903, Dress and Personal Appearance of Air Force Personnel, is in direct violation of Art 92, UCMJ. For this misconduct you received an LOA dated 14 Dec 01. (atch 1e)

f. On or about 30 Nov 01 you failed to go at the time prescribed to your appointed place of duty. For this misconduct you received a Letter of Reprimand (LOR) dated 14 Dec 01. (atch 1f)

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g. On or about 30 Nov 01 you did with the intent to deceive ask through [REDACTED] to be released early from the Airman Professional Development Seminar so that you may move from your residency. Prior to this you were specifically informed by [REDACTED] and [REDACTED] to either reschedule your move date, move after class was released for the day or procure a special power of attorney so that your roommate could sign out of your apartment for you. For this misconduct you received an LOA dated 14 Dec 01. (atch 1g)

h. On or about 18 Dec 01 you failed to go at the time prescribed to your appointed place of duty. On or about 19 Dec 01 you did with the intent to deceive make a false official statement to [REDACTED]. For this misconduct you received an Article 15 dated 4 Jan 02, which established an Unfavorable Information File (UIF). (atch 1h)

i. On or about 14 Jan 02 you were approached by the Flight Commander [REDACTED] who stated to you that you needed a haircut. It is your responsibility to maintain the standards of AFI 36-2903. For this misconduct you received an LOR dated 17 Feb 02. (atch 1i)

j. On or about 14 Feb 02 you failed to attend a mandatory pre-mission briefing. For this misconduct you received an LOR dated 19 Feb 02 and a Vacation of Nonjudicial Punishment, AF Form 366, dated 4 Mar 02. (atch 1j)

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 discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and any special pay, bonus, 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 the Area Defense Counsel at the USAF Academy on 21 Mar 02 at 1030 hours. You may consult civilian counsel at your own expense.

5. 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 from the date you receive this memorandum of notification 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 in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must complete the attached DD Form 2697 (atch 5) and report to the Peterson AFB Flight Medicine Clinic on 19 Mar 02 at 1430 hours for the examination. You must arrive 20 minutes prior to the scheduled appointment time.



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8. You must report to MPF Separations on 20 Mar 02 at 1000 hours to receive a briefing. You can contact the Separations office at 567-5335.

9. 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. Derogatory Data:
  - a. LOC, 28 Oct 01
  - b. LOA 9 Nov 01
  - c. MFR/LOC, 9 Nov 01
  - d. LOC, 27 Nov 01
  - e. LOA, 14 Dec 01
  - f. LOR, 14 Dec 01
  - g. LOA, 14 Dec 01
  - h. Article 15, 4 Jan 02, AF 1058, 25 Feb 02, AF 1137
  - i. LOR, 17 Feb 02
  - j. LOR, 19 Feb 02, AF Form 366, 4 Mar 02
2. Airmen's Receipt of Notification
3. Airmen's Statement
4. Recoupment Statement
5. DD Form 2697