







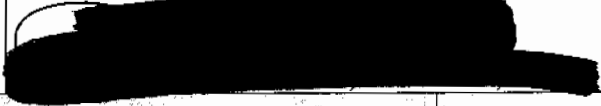


AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 		GRADE AB	AFSN/SSAN 		
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
					X
					X
					X
					X
					X
ISSUES A93.01		INDEX NUMBER A67.90		EXHIBITS SUBMITTED TO THE BOARD	
				1	ORDER APPOINTING THE BOARD
				2	APPLICATION FOR REVIEW OF DISCHARGE
				3	LETTER OF NOTIFICATION
HEARING DATE 19 FEB 03		CASE NUMBER FD2002-0415		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 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 		
INDORSEMENT			DATE: 19 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

FD02-0415

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

The applicant's issues are listed in the attached brief.

ISSUE: The applicant does not contest the discharge; he states that he cannot change the past but the mistakes he made when he was younger helped him to learn to take responsibility for his actions. The record indicates the applicant received two Article's 15 for failure to go and driving while intoxicated, and a Vacation of a suspended nonjudicial punishment for attempting to steal the refund for a keg and tap. In addition, he received two Memorandum's for Record, a Record of Individual Counseling, and three Letter's of Reprimand for underage drinking, playing loud music in his dorm room, failure to report for duty and being late for work numerous times. The DRB recognized the applicant was 21 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older then the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The Board concluded the discharge was appropriate for the reasons that were the basis for this case. No inequity or impropriety in his discharge was suggested or found in the course of the records review. His misconduct was a significant departure from conduct expected of all military members. The Board concluded that the character and reason for discharge were appropriate due to his misconduct.

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 or change the reason for 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 11 Oct 96 UP AFI 36 - 3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 27 Feb 75. Enlmt Age: 18 9/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-61, E-55, G-66, M-20. PAFSC: 3V032 - Still Photographic Apprentice. DAS: 24 Aug 95.

b. Prior Sv: (1) AFRes 10 Dec 93 - 20 Jan 94 (1 Month 11 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 21 Jan 94 for 4 yrs. Ext: 15 Mar 95 for 7 months. Svd: 2 Yrs 8 Mos 21 Das, all AMS.

b. Grade Status: AB - 16 Sep 96 (Article 15, 16 Sep 96)
AMN - 20 Aug 96 (Vacation of Article 15, 9 Sep 96)
A1C - 21 May 95
AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 16 Sep 96, Ramstein AB, GE - Article 111. You, did, on or about 1 Sep 96, in the parking lot of ---- Lounge, Building 2113, physically control a vehicle, to wit: a passenger car, while the blood alcohol concentration of your blood was 0.10 grams of alcohol per 100 milliliters of blood or greater, specifically .104 grams of alcohol per 100 milliliters of blood, as shown by chemical analysis. Reduction to the grade of AB. (No appeal) (No mitigation)

(2) 9 Sep 96, Vacation, Ramstein AB, GE - Article 80. You, did, on or about 23 Aug 96, attempt to steal the refund for a keg and tap, of a value of \$71.00, the property of the ----- Exchange Service. Reduction to the grade of AMN. (No appeal) (No mitigation)

(3) 20 Aug 96, Ramstein AB, GE - Article 86. You did, on or about 2 Aug 96, without authority fail to go at the time prescribed to your appointed place of duty. Article 92. You, who knew of your duties at or near the Protective Aircraft Shelter 106, Southwest Disbursed

Parking Area, on or about 31 Jul 96, were derelict in the performance of those duties in that you negligently failed to remain awake, as it was your duty to do. Suspended reduction to the grade of AMN, forfeiture of \$100.00 pay per month for two months, and 14 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 20 MAY 96 - Late for work.
 RIC, 1 MAR 96 - Late for work.
 LOR, 28 FEB 96 - Late for work.
 MFR, 14 FEB 96 - Failure to report for duty.
 MFR, 24 JAN 96 - Loud music in dorm room.
 LOR, 15 FEB 95 - Underage drinking.
- f. CM: None.
- g. Record of SV: 21 Jan 94 - 21 Dec 95 Ramstein AB 4 (Initial)
 (Discharged from Sheppard AFB)
- h. Awards & Decs: AFOLTR, NDSM, AFTR.
- i. Stmt of Sv: TMS: (2) Yrs (10) Mos (2) Das
 TAMS: (2) Yrs (8) Mos (21) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 23 Sep 02.
 (Change Discharge to Honorable)

Issue 1: I wish to have my general discharge upgraded to an Honorable (sic) discharge.

Issue 2: I realize that I cannot change the past but the mistakes I made when I was younger helped me learn to take responsibility for my actions. If I try to correct them, then the mistakes won't go in vain. Thank you.

ATCH

- 1. DD Form 149.

27Dec02/cr



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

FD 2002-0415

26 SEP 1996

MEMORANDUM FOR 86 AW/CC

FROM: 86 AW/JA

SUBJECT: Legal Review of Discharge - [REDACTED]
786 CS

1. I have reviewed the administrative discharge action against [REDACTED] initiated by [REDACTED] 786 CS/CC, and find it legally sufficient to support discharge.

2. BASIS FOR THE ACTION: This administrative discharge action is based on the respondent's pattern of misconduct consisting of conduct prejudicial to good order and discipline during his current enlistment. The regulatory authority for this discharge is AFI 36-3208, Section H, paragraph 5.50.2. The worst characterization a discharge under this paragraph may receive is under other than honorable conditions (UOTHC). However, AFI 36-3208, para 6.2.2, states that airmen recommended for a UOTHC discharge must receive a board hearing. Since [REDACTED] was not offered a board hearing, the worst characterization [REDACTED] service may receive is a general discharge under honorable conditions. [REDACTED] discharge is based upon the following incidents:

a. He did, on or about 1 Sep 96, physically control a car while drunk. For this action, he received nonjudicial punishment on 16 Sep 96. This Article 15 was filed in his Unfavorable Information File (UIF) on 17 Sep 96.

b. He did, on or about 23 Aug 96, attempt to steal the refund for a keg and tap, of a value of \$71.00, from AAFES. For this action, his suspended nonjudicial punishment was vacated on 9 Sep 96.

c. He did, on or about 2 Aug 96, fail to report for duty at the appointed time, and on or about 31 Jul 96, was derelict in the performance of his duties in that he failed to remain awake. For these actions, he received nonjudicial punishment on 20 Aug 96. This Article 15 was filed in his UIF on 29 Aug 96.

d. He did, on or about 20 May 96, fail to report for duty at the appointed time. For this failure, he received a Letter of Reprimand (LOR) on 20 May 96 and a UIF was established. This LOR was filed in his UIF on 3 Jun 96.

e. He did, on or about 28 Feb 96, fail to report for duty at the appointed time. For this failure, he received an LOR on 28 Feb 96 and an individual counseling on 4 Mar 96.

f. He did, on or about 14 Feb 96, fail to report for duty at the appointed time. For this failure, he received a verbal counseling.

g. He did, on or about 23 Jan 96, operate his stereo at a volume level that disturbed a dorm resident on another floor despite previous verbal counseling. For this action, he received a verbal counseling.

h. He did, on or about 11 Feb 95, engage in under age drinking. For this action, he received an LOR on 15 Feb 95 and a UIF was established.

3. MATTERS SUBMITTED BY THE RESPONDENT: After conferring with the Area Defense Counsel, the respondent submitted a letter in which he requested you consider withdrawing the discharge or granting probation and rehabilitation. The respondent addressed his background, initiative in his training and duty performance, and participation in sports and other community activities while at both of his duty assignments. He stated that he enjoyed his job and the opportunities that come with it. He requested that his commander consider probation and rehabilitation based upon his exemplary duty performance.

4. DISCUSSION: The respondent's commander has recommended that the respondent be separated from the Air Force with a general discharge IAW AFI 36-3208, paragraph 5.50.2. Under this paragraph, airmen who engage in a pattern of misconduct consisting of solely conduct prejudicial to good order and discipline are subject to discharge. In this case, the respondent has several disciplinary infractions in his relatively short current enlistment.

5. OTHER MATTERS: I find no prejudicial errors or irregularities. I note that before the respondent can be discharged, he must be found medically qualified for worldwide duty in accordance with AFI 36-3208, para 6.3. [REDACTED] had his medical appointment on 23 Sep 96, and AFI 36-3208, para 6.16, instructs that processing should not be delayed to wait for the medical report. You may authorize the discharge, but it will not be executed until the medical report is complete.

6. CHARACTERIZATION OF SERVICE: Characterization of service should be based on the quality of the member's service in the current enlistment. The respondent has 2 years and 8 months of military service. His current enlistment began on 21 Jan 94 for a term of 4 years. The respondent has received one EPR with an overall rating of 4. IAW AFI 36-3208, paragraph 5.50.2, the service of an airman discharged by notification procedure for misconduct can be characterized as honorable or general. A general characterization is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. In this case, the instances of misconduct in the current enlistment

cited as the basis for discharge constitute significant negative aspects of the respondent's service. The respondent's commander recommends a general discharge based on that misconduct. I agree.

7. PROBATION AND REHABILITATION: Under AFI 36-3208, Chapter 7, the member is entitled to have probation and rehabilitation (P&R) considered by the discharge authority. P&R includes ordering a discharge and then suspending it until the member has successfully completed a period of P&R. The respondent's commander does not recommend P&R because previous rehabilitation efforts, including verbal counseling, a Letter of Counseling, three Letters of Reprimand, creation of an Unfavorable Information File, two Article 15s, and vacation of suspended nonjudicial punishment have failed to alter the respondent's behavior.

8. BARMENT: I believe that the type of misconduct found in this case merits barment.

9. ACTIONS WHICH MAY BE TAKEN: As the discharge authority, you have the following options:

- a. Direct that the respondent be retained in the United States Air Force;
- b. Forward the case file to 3 AF/CC, recommending that the respondent be separated from the Air Force with an honorable discharge, with or without P&R;
- c. Direct that the respondent be separated from the Air Force with a general discharge, with or without P&R; or,
- d. Return the case file to the unit for processing as an administrative discharge board case. This would permit a service characterization of UOTHC.

10. RECOMMENDATION: Direct that the respondent be separated from the Air Force with a general discharge, without P&R, by signing at Attachment 1.



Attachments:

- 1. Proposed Memo for 86 AW/CC
- 2. Discharge Package



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAFE)

19 SEP 1996

MEMORANDUM FOR [REDACTED] 786 CS

FROM: 786 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline. The authority is AFPD 36-32 and AFI 36-3208, Section H, paragraph 5.50.2. 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 reasons for this action are that:

a. You did, on or about 1 Sep 96, physically control a car while drunk. For this action, you received nonjudicial punishment on 16 Sep 96 (Atch 1a). This Article 15 was filed in your Unfavorable Information File (UIF) on 17 Sep 96.

b. You did, on or about 23 Aug 96, attempt to steal the refund for a keg and tap, of a value of \$71.00, from AAFES. For this action, your suspended nonjudicial punishment was vacated on 9 Sep 96 (Atch 1b).

c. You did, on or about 2 Aug 96, fail to report for duty at the appointed time, and on or about 31 Jul 96, were derelict in the performance of your duties in that you failed to remain awake. For these actions, you received nonjudicial punishment on 20 Aug 96 (Atch 1c). This Article 15 was filed in your UIF on 29 Aug 96.

d. You did, on or about 20 May 96, fail to report for duty at the appointed time. For this failure, you received a Letter of Reprimand (LOR) on 20 May 96 (Atch 1d) and a UIF was established. This LOR was filed in your UIF on 3 Jun 96.

e. You did, on or about 28 Feb 96, fail to report for duty at the appointed time. For this failure, you received an LOR on 28 Feb 96 (Atch 1f) and an individual counseling on 4 Mar 96 (Atch 1e).

f. You did, on or about 14 Feb 96, fail to report for duty at the appointed time. For this failure, you received a verbal counseling (Atch 1g).

g. You did, on or about 23 Jan 96, operate your stereo at a volume level that disturbed a dorm resident on another floor despite previous verbal counseling. For this action, you received a verbal counseling (Atch 1h).

h. You did, on or about 11 Feb 95, engage in under age drinking. For this action, you received an LOR on 15 Feb 95 (Atch 1i) and a UIF was established.

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 higher authority, will decide whether you will be discharged or retained in the United States 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 United States Air Force, and any special pay, bonus, or education assistance funds you have received 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 with [REDACTED] Area Defense Counsel at Building 2111, DSN 480-2182/2492 on 23 Sep 96 at 1100. You may consult civilian counsel at your own expense. The Area Defense Counsel requests that you stop by their office prior to your appointment to pick-up the Administrative Discharge Booklet.

5. You have the right to submit statements in your behalf. Any statements you want the separation authority to consider must reach me NLT (3 duty days) 24 Sep 96 at 1530 hours 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 submit statements in your behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report in uniform with your medical records and an escort to the base clinic, Physical Exams in Building 2182 on 23 Sep 96 at 1300 for the examination. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them. You must abstain from alcohol 72 hours, fast 12 hours, and abstain from caffeine and nicotine 10 hours prior to your appointment.

8. 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 orderly room.



Attachments:

1. Supporting Documents

- a. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 17 Sep 96
- b. AF Form 366, Record of Proceedings of Vacation on Nonjudicial Punishment, dated 9 Sep 96
- c. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 20 Aug 96 w/ atch, UIF Action, and response
- d. LOR, dated 20 May 96 w/ response and UIF Action
- e. AF Form 174, Record of Individual Counseling, dated 4 Mar 96
- f. LOR, dated 28 Feb 96
- g. Memorandum for Record (MFR), dated 14 Feb 96
- h. MFR, dated 24 Jan 96
- i. LOR, dated 15 Feb 95 w/ response

2. Other Derogatory Information:

- a. Memorandum, dated 17 May 95

3. Airman's Receipt of Notification Memorandum