

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN				
		AIC					
TYPE GEN	X PERSONAL APPEARANCE		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
			X+				
			X+*				
			X+*				
			X+*				
					X		
ISSUES A01.14, 93.15, 93.34, 94.06, 94.12		INDEX NUMBER A67.10		EXHIBITS SUBMITTED TO THE BOARD			
				1	ORDER APPOINTING THE BOARD		
HEARING DATE 22 APR 03		CASE NUMBER FD2002-0513		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 RATIONALE.							
REMARKS Case heard at Washington, DC. Advise applicant of the decision of the Board. + - Change Reason and Authority for the Discharge * - Change RE Code							
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT				
INDORSEMENT				DATE: 23 APR 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 FD2002-0513
<p>GENERAL: The applicant appeals for upgrade of discharge to Honorable and for a change in the RE Code and the Reason and Authority for discharge.</p> <p>The applicant's case was considered by the Discharge Review Board (DRB), at Andrews AFB, MD, on April 22, 2003. The applicant appeared before the DRB but did not have counsel.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: The DRB grants the requested relief. The DRB finds that the evidence of record and that provided by the applicant substantiates an inequity justifying an upgrade of the discharge and a change to the RE Code and to the Reason and Authority for the discharge.</p> <p>ISSUES: The applicant was discharged with a general service characterization from the Air Force for misconduct or, more specifically, minor disciplinary infractions. He had two letters of reprimand for disobeying a lawful order, a letter of reprimand for failure to go, a letter of reprimand for failure to pay a just debt, an Article 15 for dereliction of duty and wrongful appropriation of government property, and a vacation action for disorderly conduct. All of this misconduct occurred in a 6-month period of time and all after the applicant had already served three years with outstanding service. The applicant complained that the discharge action was too harsh and that he had not been given the opportunity to demonstrate he had been rehabilitated and could continue to serve effectively. He claimed, as well, that his marital problems contributed to the problems he experienced at work. He also alleged racial discrimination and a personality conflict with his first sergeant.</p> <p>CONCLUSIONS: The DRB concludes that the discharge was inconsistent with the substantive requirements of the discharge regulation and that as a result, the discharge action was inequitable.</p> <p>At the outset, it should be noted that the DRB found absolutely no evidence of racial discrimination by the first sergeant or any other member of the Air Force. The applicant provided no evidence of discrimination and could not explain why he perceived such mistreatment. While there may have been animosity, or even a personality conflict, on the part of the first sergeant, that would have been the product of factors other than racial discrimination – for example, the first sergeant may have reacted to the applicant with animosity because his misconduct and behavior problems created significantly more work for her.</p> <p>The DRB did, however, find evidence that the discharge action was too harsh and that the applicant's excellent duty performance and the mitigating circumstances surrounding his misconduct were not properly considered by the chain of command or the discharge authority. The DRB was particularly impressed with the applicant's duty performance while at his previous base, to include the AFCM. That duty performance together with the absence of any disciplinary action during his previous assignment; the confined period of time in which his misconduct occurred; and the manipulative behavior of the applicant's ex-wife, which contributed to the applicant's difficulties, all suggested to the DRB that the discharge action and the characterization were inequitable and inappropriate.</p> <p>The DRB concludes that under the circumstances, an Honorable characterization, a change in the Reason and Authority of the Discharge, and a change in the RE Code are all warranted.</p> <p>Attachment: Examiner's Brief</p>	

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]
(Former A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/03/03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 76/01/01. Enlmt Age: 18 7/12. Disch Age: 23 2/12. Educ: HS DIPL. AFQT: N/A. A-43, E-43, G-37, M-45. PAFSC: 3M051 - Services Journeyman. DAS: 97/07/15.

b. Prior Sv: (1) AFRes 94/08/29 - 95/01/10 (4 months 12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 95/01/11 for 4 yrs. Extention 97/07/01 for 8 months. Svd: 04 Yrs 01 Mo 23 Das, all AMS.

b. Grade Status: A1C - 99/01/28 (Article 15, 99/01/28)
SrA - 97/07/11
A1C - 96/05/11
AMN - (EPR Indicates): 95/01/11-96/09/10

c. Time Lost: none.

d. Art 15's: (1) 99/01/28, Vacation, Pope AFB, NC - Article 134. You, were, at Dormitory 395, Pope AFB, NC, on or about 19 Dec 98, disorderly. Reduction to A1C. (No appeal) (No mitigation)

(2) 98/11/10, Pope AFB, NC - Article 92 & 121. You, who knew of your duties, on or about 16 Sep 98, were derelict in the performance of those duties, in that you willfully failed to deposit final shift funds in the safe at Building 235, Pope AFB Billeting, as it was your duty to do. You, did, on or about 16 Sep 98, wrongfully appropriate final shift funds, of a value of about \$50.00, the property of the U.S. Government. Reduction to A1C (suspended until 09 May 99, 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 09 NOV 98 - Failure to pay just debt.
LOR, 13 OCT 98 - Failure to go.
LOR, 02 SEP 98 - Disobey a lawful order.
LOR, 27 JUL 98 - Disobey a lawful order.

f. CM: none.

g. Record of SV: 95/01/11 - 96/09/10 McGuire AFB 5 (Initial)
 96/09/11 - 97/07/17 McGuire AFB 5 (CRO)
 97/07/18 - 98/07/14 Pope AFB 5 (CRO)

(Discharged from Pope AFB)

h. Awards & Decs: AFCM, AFSAR, AFTR, NDSM, AFOUA W/1 OLC, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (06) Mos (05) Das
 TAMS: (04) Yrs (01) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/11/15.
 (Change Discharge to Honorable)

Issue 1: My name is ----- and I am a twenty-five year old former member of The United States Air Force. My military career was one of good character and outstanding organizational achievements, Such as "Airman Of The Quarter", and being selected as "Senior Airman Below The Zone". I also received "The Air Force Commendation Medal" as an E-3 while stationed at McGuire AFB, NJ. Despite these and other numerous awards, my military career ended on short terms due to the decision of those appointed over me. I had already completed four years of faithful service and reenlisted for four more before involuntarily separating. For two years or more I have been trying with the help of several V.A. administrators to hear my case. I feel that my case was totally misjudged and should be greatly reconsidered due to unfair actions. Since I was very young I longed to be a strong and willing soldier as part of such a wonderful country. Therefore I feel that these dreams should not go up in smoke as the result of poor leadership. Far too many cases of maltreatment have gone unreported. Please contact me soon about this matter for full details of my situation. Once again thanks for taking the time to read my letter.

ATCH

1. Letter to the Discharge Review Board.

01/12/27/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE NORTH CAROLINA

24 FEB 1999

MEMORANDUM FOR 43 AW/CC

FROM: 43 AW/JA

SUBJECT: Legal Review: Discharge under Provisions of AFPD 36-32 and AFI 36-3208,
Paragraph 5.49 (AIC [REDACTED] 43 SVS)

1. **BASIS FOR ACTION:** Administrative discharge action was initiated on 10 Feb 99 against AIC [REDACTED] under the provisions of AFPD 36-32 and AFI 36-3208, chapter 5, paragraph 5.49, minor disciplinary infractions. The squadron commander recommends separation with a general discharge. On 22 Feb 99, AIC Phillips submitted statements on his behalf (See Attachment 3 to Squadron Commander's Recommendation). The most severe type of discharge authorized in this case is an under other than honorable conditions discharge (UOTHC) should you elect to initiate board proceedings.

2. **FACTS:**

a. On or about 19 Dec 98, at Dormitory 395, Pope Air Force Base, North Carolina, AIC [REDACTED] was disorderly as documented by an AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 26 Jan 99.

b. On or about 16 Sep 98, at or near Pope Air Force Base, North Carolina, AIC [REDACTED] who knew of his duties, was derelict in the performance of those duties, in that he willfully failed to deposit final shift funds in the safe at Building 235, Pope Air Force Base, North Carolina, as it was his duty to do as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 2 Nov 98.

c. On or about 16 Sep 98, at or near Pope Air Force Base, North Carolina, AIC [REDACTED] did, wrongfully appropriate final shift funds, of a value of about fifty dollars (\$50.00), the property of the United States government as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 2 Nov 98.

d. Between on or about 18 Jul 98 and on or about 29 Oct 98, AIC [REDACTED] being indebted to AAFES, in an unspecified amount, dishonorably failed to pay said debt on divers occasions as documented by a Letter of Reprimand, dated 9 Nov 98.

AMC - Global Reach For America

- e. On or about 13 Oct 98, [REDACTED] failed to go to his appointed place of duty at the time prescribed as documented by a Letter of Reprimand, dated 13 Oct 98.
- f. On or about 1 Sep 98, [REDACTED] having received a lawful command from Major [REDACTED] his superior commissioned officer, then known by him to be his superior commissioned officer, to have no contact with his spouse, or words to that effect, did, willfully disobey the same, as documented by a Letter of Reprimand, dated 2 Sep 98.
- g. Between on or about 24 Jul 98 and on or about 25 Jul 98, [REDACTED] having received a lawful command from [REDACTED] his superior commissioned officer, then known by him to be his superior commissioned officer, to have no contact with his spouse, or words to that effect, did, willfully disobey the same, as documented by a Letter of Reprimand, dated 27 Jul 98.

3. PERSONAL DATA: [REDACTED] is 23 years old and began serving his current enlistment on 20 Apr 98. His duty title is Fitness Specialist, AFSC 3M031. He is entitled to wear the Air Force Good Conduct Medal, National Defense Service Medal, Air Force Training Ribbon, Air Force Outstanding Unit Award, and Air Force Commendation Medal.

4. DISCUSSION:

- a. This discharge recommendation has been processed in compliance with AFI 36-3208, and the record is legally sufficient to sustain a discharge. The circumstances cited by the 43 SVS/CC as reasons for discharge occurred within [REDACTED] current enlistment.
- b. Minor disciplinary infractions are contrary to the self-discipline required for effective military service. [REDACTED] record reveals a history of minor disciplinary infractions including disorderly conduct, dereliction of duty, wrongful appropriation, failing to pay a just debt, failing to go, and two instances of failing to obey a lawful command.
- c. In determining the proper characterization of [REDACTED] service, the guidelines in AFI 36-3208, paragraphs 1.17 and 1.18, must be applied. These guidelines provide that service characterization be based upon the quality of the member's service as reflected in the military record, as evidenced by personal conduct, performance of duty, and the reasons for the discharge action. Service characterization is usually based on a pattern of behavior rather than an isolated incident, the standards of acceptable conduct and performance of duty for an airman.
- d. A1C [REDACTED] service record reveals several minor disciplinary infractions. Further, A1C [REDACTED] was given notice and provided ample opportunity to bring his conduct up to standards, but failed to do so. In this case, a general discharge is warranted because the negative aspects of [REDACTED] record outweigh the positive aspects of his service. Indeed, [REDACTED] service has not been so meritorious as to warrant an honorable discharge, nor has his misconduct been to such a degree that a UOTHC discharge is appropriate. P&R is not appropriate under these circumstances because A1C [REDACTED]

already been given several opportunities to improve his behavior and elevate it to an acceptable standard. However, he has shown he has no rehabilitative potential. Thus, it's apparent that active duty probationary status would be inconsistent with the maintenance of good order and discipline in the Air Force.

5. OPTIONS: As the separation authority in this case, you may:

- a. reject the squadron commander's recommendation and retain A1C [REDACTED] on active duty;
- b. recommend to the GCM that A1C [REDACTED] receive an honorable discharge;
- c. convene a board hearing if you feel an under other than honorable conditions discharge is warranted;
- d. discharge [REDACTED] with a general discharge with or without P&R.

6. RECOMMENDATION: Concur with the squadron commander's recommendation and sign the letter directing [REDACTED] discharge with a general discharge characterization without P&R.

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE NORTH CAROLINA

FD 2001-0513

FEB 10 1999

MEMORANDUM FOR [REDACTED] 3 SVS

FROM: 43 SVS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. The most severe type of discharge authorized in this case is an under other than honorable conditions discharge. I am recommending that your service be characterized as general.
2. My reasons for this action are:
 - a. On or about 19 Dec 98, at Dormitory 395, Pope Air Force Base, North Carolina, you were disorderly as documented by an AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 26 Jan 99.
 - b. On or about 16 Sep 98, at or near Pope Air Force Base, North Carolina, you, who knew of your duties, were derelict in the performance of those duties, in that you willfully failed to deposit final shift funds in the safe at Building 235, Pope Air Force Base, North Carolina, as it was your duty to do as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 11 Jun 98.
 - c. On or about 16 Sep 98, at or near Pope Air Force Base, North Carolina, you, did, wrongly appropriate final shift funds, of a value of about fifty dollars (\$50.00), the property of the United States government as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 11 Jun 98.
 - d. Between, on or about 18 Jul 98 and on or about 29 Oct 98, you, being indebted to AAFES, in an unspecified amount, dishonorably failed to pay said debt on divers occasions as documented by a Letter of Reprimand, dated 9 Nov 98.
 - e. On or about 13 Oct 98, you failed to go to your appointed place of duty at the time prescribed as documented by a Letter of Reprimand, dated 13 Oct 98.
 - f. On or about 1 Sep 98, you, having received a lawful command from [REDACTED] your superior commissioned officer, then known by you to be your superior commissioned officer, to have no contact with your spouse, or words to that effect, did, willfully disobey the same, as documented by a Letter of Reprimand, dated 2 Sep 98.

g. Between, on or about 24 Jul 98 and on or about 25 Jul 98, you, having received a lawful command from [REDACTED] your superior commissioned officer, then known by you to be your superior commissioned officer, to have no contact with your spouse, or words to that effect, did, willfully disobey the same, as documented by a Letter of Reprimand, dated 27 Jul 98.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The 43d Airlift Wing Commander, who exercises 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 reenlistment in the Air Force.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. Contact [REDACTED] extension 4-2362) at the Area Defense Counsel's office immediately after being served with this notification memorandum. At that time an appointment will be scheduled for you to consult [REDACTED] the Area Defense Counsel. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

5. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me by 16 Feb 99 at 1300 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 in three days**, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a physical examination. Report to physical exams on 11 Feb 99 at 0815 hrs. In addition, report to physical exams/Lab ASAP for HIV screening.

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 at the orderly room.

[REDACTED]

Attachments:

1. AF Form 366, dated 26 Jan 99
2. AF Form 3070, dated 11 Jun 98
3. LOR, dated 9 Nov 98
4. LOR, dated 13 Oct 98
5. LOR, dated 2 Sep 98
6. LOR, dated 24 Aug 98
7. LOR, dated 27 Jul 98