

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AMN	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
GEN	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
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A94.53, A01.43	INDEX NUMBER A67.50	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
		4	BRIEF OF PERSONNEL FILE	
				COUNSEL'S RELEASE TO THE BOARD
HEARING DATE 17 JULY 03		CASE NUMBER FD2003-00043		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 and the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDING OFFICER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 17 JULY 03
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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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2003-00043

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 unable to identify any.

Issues. Applicant was discharged for a pattern of misconduct. He had an Article 15, seven Records of Individual Counseling, six Letters of Reprimand, an Enlisted Performance Report that was rated an overall referral "1," and was placed on the Control Roster. His misconduct occurred over an 12-month period and included failure to go or being late for duty five times, failure to obey a lawful order, failing to follow the appropriate technical order, driving a government vehicle at an unsafe speed, failing to follow safety procedures, failure to follow required procedures, and dereliction of duty by failure to follow military inspection procedures. Member's medical records disclosed he was returned to duty after a medical evaluation board in which he was diagnosed with attention-deficit / hyperactivity disorder of the inattentive type, something for which he had apparently been treated from age 5 to 12, but which wasn't reflected on his enlistment physical. With regard to applicant's misconduct, the Board noted member had had at least 14 separate opportunities to improve his behavior. At the time of the discharge, member consulted counsel but waived his right to submit statements in his own behalf. The Board noted that member was age 24 to 25 when his offenses occurred, the same age as other airmen who adhere to standards. He was counseled repeatedly in an effort to help him correct his deficiencies. In spite of those rehabilitative efforts, he was unwilling or unable to improve his behavior. The Board concluded applicant knew right from wrong and was responsible for his actions, and therefore was held accountable for them. No inequity or impropriety was found in this discharge in the course of the records review. Furthermore, since some of the discharge documents are not available for review, and lacking any evidence from the applicant to the contrary, the Board must rely on the presumption of regularity and found no wrongful action by the Air Force, and finds the discharge proper and without basis for upgrade.

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

(Former AMN) (HGH A1C)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 10 Oct 01 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 26 Apr 76. Enlmt Age: 22 0/12. Disch Age: 25 5/12. Educ: HS DIPL. AFQT: N/A. A-68, E-41, G-39, M-64. PAFSC: 2A353B - Tactical Maintenance Specialist Journeyman. DAS: 24 Feb 00.

b. Prior Sv: (1) AFRes 27 Apr 98 - 12 May 98 (16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 13 May 98 for 6 yrs. Svd: 3 Yrs 4 Mos 28 Das, all AMS.

b. Grade Status: AMN - 27 Apr 01 (Article 15, 27 Apr 01)
A1C - 27 Jun 98

c. Time Lost: None.

d. Art 15's: (1) 27 Apr 01, Luke AFB, AZ - Article 92. You, who knew of your duties, between on or about 23 Jul 01 and on or about 30 Jul 01, were derelict in the performance of those duties in that you negligently failed to properly follow procedures for checking equipment in and out of your unit as it was your duty to do. Reduction to Amn. (No appeal) (No mitigation)

e. Additional: - (Examiner's Note: The Legal Review is the source of the following additional infractions)

LOR, 09 MAY 01 - Failure to obey a lawful order.

RIC, 15 MAR 01 - Failure to return to duty.

RIC, 07 FEB 01 - Failure to go.

LOR, 11 DEC 00 - Failure to properly ensure the main fuel shut-off valve was correctly positioned for engine removal.

LOR, 02 NOV 00 - Dereliction of duty by failing to comply with inspection standards.

LOR, 28 AUG 00 - Dereliction of duty by failing to comply with inspection standards.

RIC, 22 AUG 00 - Failure to go.

LOR, 21 AUG 00 - Dereliction of duty by failing to comply with military standards.

LOR, 12 JUN 00 - Failure to follow proper safety
procedures.
RIC, 09 JUN 00 - Failure to go.
RIC, 26 MAY 00 - Speeding with government vehicle.
RIC, 25 MAY 00 - Failure to go.
RIC, 23 MAY 00 - Failure to abide by appropriate technical
order.

f. CM: None.

g. Record of SV: 13 Jan 00 - 11 Feb 01 Luke AFB 2 (Annual)REF

(Discharged from Luke AFB)

h. Awards & Decs: AFTR, AFOSSTR, AFOUA, AFGCM.

i. Stmt of Sv: TMS: (3) Yrs (5) Mos (14) Das
TAMS: (3) Yrs (4) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 24 Jan 03.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
None.

21MAR03/ia



DEPARTMENT OF THE AIR FORCE
56th Fighter Wing (AETC)
Luke Air Force Base Arizona

FD2003-00043

MEMORANDUM FOR 56 FW/CC

FROM: 56 FW/JA

SUBJECT: Legal Review of Administrative Discharge – Amn [REDACTED]
[REDACTED] 309 FS

1. ACTION: This case is before you for review and action in your capacity as the separation authority. The 309 FS/CC recommends the Respondent be separated from the United States Air Force with a general discharge without probation and rehabilitation pursuant to AFI 36-3208, paragraph 5.50.2 for a Pattern of Misconduct. I concur.

2. BACKGROUND: The Respondent is 25 years old and has been on active duty in the United States Air Force for approximately three years and 4 months. He is serving an initial six-year enlistment. His AQE scores are: Admin - 68; Elect - 41; Gen - 39; and Mech - 64. The Respondent's awards and decorations include the Air Force Outstanding Unit Award, Air Force Overseas Short Tour Ribbon and the Air Force Training Ribbon. The member has received one EPR dated 13 Jan 00 – 11 Feb 01 with a rating of 2.

3. FACTS: The following actions from the Respondent's current enlistment establish a pattern of misconduct under paragraph 5.50.2:

a. On 23 May 00, the Respondent failed to abide by the appropriate technical order and was given a Record of Individual Counseling.

b. On 26 May 00, the Respondent operated a government vehicle at an unsafe speed and was given a Record of Individual Counseling.

c. On 25 May 00, the Respondent failed to report to his appointed place of duty at the time prescribed and was given a Record of Individual Counseling.

d. On 9 Jun 00, the Respondent failed to report to his appointed place of duty at the time prescribed and was given a Record of Individual Counseling.

e. On 12 Jun 00, the Respondent failed to follow proper safety procedures. He was given a Letter of Reprimand and was placed on a Control Roster.

f. On 21 Aug 00, the Respondent was derelict in his duty performance by failing to comply with military inspection standards. He received a Letter of Reprimand for this misconduct.

--Attorney Work Product--

This work product has been prepared by an attorney in the course of performing legal duties on behalf of a client, and is not to be provided to anyone outside the Air Force without approval of the originator or higher authority. It is exempt from disclosure under the Freedom of Information Act under 5 U.S.C. §552(b)(5) and protected from release under FRCP 26(h)(3).

g. On 22 Aug 00, the Respondent failed to report to his appointed place of duty at the time prescribed and was given a Record of Individual Counseling.

h. On 28 Aug 00, the Respondent was derelict in his duty performance by failing to comply with military inspection standards and was given a Letter of Reprimand.

i. On 2 Nov 00, the Respondent was derelict in his duty performance by failing to comply with military inspection standards and was given a Letter of Reprimand.

j. On 11 Dec 00, the Respondent failed to properly ensure the main fuel shut-off valve was correctly positioned for engine removal and was given a Letter of Reprimand.

k. On 7 Feb 01, the Respondent failed to report to his appointed place of duty at the prescribed time and was given a Record of Individual Counseling.

l. On 15 Mar 01, the Respondent failed to return to duty and was given a Record of Individual Counseling.

m. On 9 May 01, the Respondent failed to obey a lawful order to report to the emergency room for treatment and was given a Letter of Reprimand.

n. Between on about 23 Jul 01 and on or about 30 Jul 01, the Respondent was derelict in his duty performance by failing to properly follow procedures for checking equipment in and out, as it was his duty to do. He received an Article 15 for this misconduct and the punishment included a reduction to the grade of E-2.

4. RESPONDENT'S MATTERS: The Respondent met with military defense counsel and elected not to submit a statement for your consideration regarding this discharge action.

5. CHARACTERIZATION OF DISCHARGE: The Respondent's commander recommends a general discharge service characterization for Amn Long's term of service. A general (under honorable conditions) characterization of service is appropriate if the airman's service has been honest and faithful, and if significant negative aspects of the airman's conduct or duty performance outweigh the positive aspects of his record. During his enlistment, Amn Long has received eight Records of Individual Counseling, five Letters of Reprimand, an Unfavorable Information File, a Control Roster, and an Article 15. The negative aspects outweigh the positive aspects of his service record; therefore, a general discharge is appropriate.

6. PROBATION AND REHABILITATION (P&R): P&R, in accordance with AFI 36-3208, Chapter 7, would be inappropriate in this case and contrary to the best interests of good order and discipline. Amn [REDACTED] has failed to respond to past rehabilitative efforts and it is unlikely further probation and rehabilitation would be productive.

7. **LEGAL SUFFICIENCY:** There is a sufficient factual basis to support this discharge. Further, this file has been prepared in substantial compliance with the provisions of AFI 36-3208. Finally, the Respondent has been notified of this discharge, was given the opportunity to meet with the Area Defense Counsel and to present matters for your consideration. For these reasons, we find this case file legally sufficient.

8. **OPTIONS:** As the separation authority you have the following options:

- a. Retain the Respondent; or
- b. Separate the Respondent with a general discharge, with or without probation and rehabilitation; or
- c. Forward the case to 19 AF/CC recommending the Respondent receive an honorable discharge, with or without probation and rehabilitation; or
- d. If you feel an under other than honorable conditions discharge is appropriate, return the package to the squadron for processing in accordance with administrative discharge procedures.

9. **RECOMMENDATION:** Based on the foregoing, I recommend you separate the Respondent from the United States Air Force with a general discharge without probation and rehabilitation for a Pattern of Misconduct pursuant to AFI 36-3208, paragraph 5.50.2.



Lt Col, USAF

Staff Judge Advocate