

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████		GRADE AB	AFSN/SSAN ████████████████			
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No	NAME OF COUNSEL AND OR ORGANIZATION				
X		DAV				
MEMBER SITTING		VOICE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A93.23 A93.01 A93.09		INDEX NUMBER A67.90		APPLICANT'S SUBMITTALS 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	
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE	
					TAPE RECORDING OF PERSONAL APPEARANCE	
HEARING DATE 07 May 2004		CASE NUMBER FD-2003-00549				
APPLICANT'S ISSUE AND THE BOARD'S DECISION						
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.						
TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

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 available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

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

ISSUES:

Issue 1. Applicant infers discharge was inequitable because it was too harsh and did not take into consideration the negative impact several adverse personal situations had on him which caused him to "Act out." The records indicated the applicant received two Articles 15, a vacation action, six Letters of Reprimand, two Letters of Counseling, four records of Individual Counseling and one Memorandum for Record for misconduct. He also had an Unfavorable Information File, was placed on the Control Roster, and had an Enlisted Performance Report rated an overall referral "2." His infractions included failure to go, financial irresponsibility, vehicle registration lapses, disobeying lawful orders, fraudulent receipt of housing allowances, making a false official statement, and driving while intoxicated. While it is understandable that a member experiencing personal problems has additional stress, there is no evidence that member sought help from available agencies such as the Chaplain, Mental Health Clinic, Family Support Center, or chain of command. Because he was unable to separate his problems from his duties, he became an administrative burden on his unit and a disruptive influence on morale and discipline. The DRB opined that through the unit's extensive administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on August 16, 1996) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 3. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. 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 as old as the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the 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, 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 31 Mar 00 UP AFI 36-3208, paragraphs 5.50.2 & 5.49 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline & Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 8 Sep 78. Enlmt Age: 17 8/12. Disch Age: 21 6/12. Educ: HS DIPL. AFQT: N/A. A-97, E-54, G-34, M-51. PAFSC: 2T251 - Air Transportation Journeyman. DAS: 12 Nov 96.

b. Prior Sv: (1) AFRes 6 Jun 96 - 23 Jul 96 (1 month 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 24 Jul 96 for 4 yrs. Extended 4 Feb 99 for 5 months. Svd: 3 Yrs 8 Mo 8 Das, all AMS.

b. Grade Status: AB - 17 Feb 00 (Article 15, 17 Feb 00)
Amn - 8 Sep 99 (Vacation of Article 15, 1 Nov 99)
A1C - 1 Feb 98
Amn - 24 Jan 97

c. Time Lost: None.

d. Art 15's: (1) 17 Feb 00, Travis AFB, CA - Article 92. You, who knew of your duties, on or about 21 Jan 00, were derelict in the performance of those duties in that you willfully failed to refrain from operating a vehicle while your driver's license was suspended, as it was your duty to do. Article 111. You, did, on or about 21 Jan 00, on Air Base Parkway physically control a vehicle, to wit: a passenger car, while drunk. Reduction to AB, and 15 days extra duty. (No appeal) (No mitigation)

(2) 1 Nov 99, Vacation, Travis AFB, CA - Article 86. You did, on or about 9 Oct 99, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, having knowledge of a lawful order issued by TSgt [REDACTED] to not utilize any government telephone within your work section for a period of three months, an order which it was your duty to obey, did on or about 6 Oct 99, fail to obey the same by wrongfully utilizing the supervisor's office telephone for at least thirty minutes. You did, on or

about 5 Oct 99, fail to obey a lawful order to wit: SSgt [REDACTED] and TSgt [REDACTED] order to get a haircut, fail to obey the same by wrongfully coming into work without getting your haircut. Reduction to Airman. (No appeal) (No mitigation)

- (3) 8 Sep 99, Travis AFB, CA - Article 92. You, who knew or should have known of your duties, between on or about 29 Sep 98 and on or about 22 Jun 99 were derelict in the performance of those duties in that you willfully failed to stop payments of off-base housing allowance, of a value of about \$4,494.00, the property of the United States Air Force, which you should have reported to finance, as it was your duty to do. Article 107. You did, on 5 Aug 99, with intent to deceive, make to SrA [REDACTED] an official statement, to wit: "Around or about October or November of 98..., I went to finance and spoke with a SrA [REDACTED] to see if this entitlement was legitimate. He informed me that everything was O.K.," or words to that effect, which statement was totally false, and was then known by you to be so false. Suspended reduction to Airman. Forfeiture of \$100.00 pay per month for 2 months, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 07 JAN 00 - Citations for operating a motor vehicle without a valid state registration; without valid insurance; operating a motor vehicle with a child under 3 yrs not in an approved child restraint; second infraction of operating a motor vehicle without a valid state registration.
- LOR, 10 DEC 99 - Financial irresponsibility.
- LOR, 09 OCT 99 - Disobeying a lawful order.
- LOR, 08 OCT 99 - Disobeying a lawful order to get a haircut.
- LOR, 08 OCT 99 - Disobeying a lawful order to not use the telephone.
- RIC, 21 JUL 99 - Missed appointment.
- RIC, 21 JUL 99 - Failure to follow orders.
- LOR, 22 JUN 99 - Citation for an expired state vehicle registration.
- RIC, 11 JUN 99 - Citation for an expired state vehicle registration.
- MFR, 15 MAR 99 - Financial irresponsibility.
- RIC, 30 OCT 98 - Financial irresponsibility.
- LOC, 19 AUG 98 - Failure to wear a seat belt.
- LOC, 18 AUG 98 - Failure to go.

f. CM: None.

g. Record of SV: 24 Jul 96 - 23 Mar 98 Travis AFB 2 (Initial) REF
 24 Mar 98 - 02 Oct 98 Travis AFB 3 (CRO)
 03 Oct 98 - 04 Jul 99 Travis AFB 4 (CRO)

(Discharged from Travis AFB)

h. Awards & Decs: AFAM, AFTR, AFOUA W/1 DEV.

i. Stmt of Sv: TMS: (3) Yrs (9) Mos (26) Das
 TAMS: (3) Yrs (8) Mos (8) Das

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

Issue 1: I entered the Air Force three months after I graduated high school at the age of seventeen. It was my first time away from my home and my family. My third day of basic training my only sister was murdered, two weeks into tech school a childhood friend that I've known all my life was also murdered, and a year after I got to my first duty station I had a baby girl by a woman who caused me all sorts of problems. With all of these things going on in my life, I admit that I acted out inappropriately from time to time which led to a number of LOC's (sic) and LOR's (sic). I blame the trouble I got myself into on being young and just not knowing how to handle certain situations. None of the trouble I got into never occurred (sic) while I was on duty, it all had something to do with my personal affair whether it be financial, because I didn't know how to manage money and miss a DPP payment, or my daughter's mother constantly calling me at work, where personal calls were prohibited or she calling my first (sic) Sergeant because she was upset about something. I feel that I deserve an upgrade to honorable because I was discharged four months early before my four year commitment was over. I don't think it was fair because I paid for my Montgomery GI bill and with that general under honorable conditions discharge I'm not eligible to use it. I have two children now, and I would like to further my education so that I may provide a future for them. I'm 25 now and looking back I know that a lot of things and the way I behaved was due to me just being young and stupid, but should that condemn me for the rest of my life? I think not. Please consider my request for upgrade to an honorable discharge, I really feel I deserve it. Thank You!

ATCH

None.

5JAN04/ia



(PD2003-00549)
DEPARTMENT OF THE AIR FORCE
60TH AERIAL PORT SQUADRON (AMC)

28 FEB 2000

MEMORANDUM FOR AB [REDACTED] 60 APS

FROM: 60 APS/CC
90 Ragsdale Street
Travis AFB CA 94535

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct, Minor Disciplinary Infractions, and A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline, according to AFI 36-3208, paragraphs 5.49 and 5.50.2, respectively. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. Misconduct, Minor Disciplinary Infractions, paragraph 5.49.

(1) On or about 30 Jul 98, you failed to attend a scheduled Chemical Warfare Defense Training (CWDT), for which you received a letter of counseling (LOC) on 18 Aug 98 (Atch 1, Tab 1).

(2) On or about 11 Aug 98, you failed to wear a seat belt while operating a government-owned truck on the flight line, in violation of AFI 91-207, for which you received a LOC on 19 Aug 98 (Atch 2 Tab 1).

(3) On or about 29 Oct 98, you were delinquent in your AAFES Deferred Payment Plan account payments, for which you received a RIC on 30 Oct 98 (Atch 3, Tab 1).

(4) On or about 27 May 99, you were cited by Security Forces for not maintaining valid vehicle registration from October 1998 to 27 May 1999, as evidenced by a DD Form 1408, Armed Forces Traffic Ticket. You admitted your vehicle registration had expired since October 1998 and your main reason for not paying it was, you had no money to renew it. For this misconduct, you received a letter of reprimand (LOR) on 22 Jun 99 (Atch 4, Tab 1).

(5) On or about 21 Jul 99, you violated an order to provide a copy of your June 1999 leave and earning statement to TSgt [REDACTED] by your next duty day from 17 Jul 99 so he could verify if the erroneous payments you were receiving had been corrected. For your action, you received a RIC on 21 Jul 99 (Atch 5, Tab 1).

(6) On or about 21 Jul 99, you failed to attend a scheduled CWDT appointment, resulting in a RIC on 21 Jul 99 (Atch 6, Tab 1).

(7) On or about 8 Oct 99, you failed to attend a mandatory 60 APS/TRK briefing, for which you received a LOR on 9 Oct 99 (Atch 7, Tab 1).

(8) During the months of September through November 1999, you wrote 7 dishonored checks totaling \$361.53 to various AAFES locations on Travis AFB, as evidenced by an AAFES dishonored check notification, dated 22 Nov 99. For this, you received a LOR on 10 Dec 99, which was placed in your existing UIF (Atch 8, Tab 1).

(9) On or about 23 Dec 99, you were cited by Security Forces for operating your vehicle with a child under 4 years of age, not in an approved child restraint seat. Further, on or about 27 Dec 99, you were again cited for not maintaining valid vehicle registration from October 1999 to 27 December 1999 (a second citation for this offense), resulting in a LOR on 7 Jan 00 (Atch 9, Tab 1).

b. A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline, paragraph 5.50.2.

(1) Between on or about 29 Sep 98 and on or about 22 Jun 99, you were derelict in the performance of your military duties in that you willfully failed to stop payments of off-base housing allowance, of a value of about \$4,494.00, the property of the United States Air Force, in violation of Article 92, UCMJ.

(2) On or about 5 Aug 99, with intent to deceive, you made to SrA [REDACTED] a false official statement, by saying, "Around or about October or November 1998, I went to finance and spoke with a SrA [REDACTED] to see if this entitlement was legitimate. He informed me that everything was O.K.," or words to that effect which statement was totally false, in violation of Article 107, UCMJ. For these offenses in paragraphs 2b(1) and 2b(2), you received an Article 15, dated 8 Sep 99, which was placed in an unfavorable information file (UIF). Punishment consisted of a suspended reduction to the grade of airman, forfeiture of \$100.00 pay per month for 2 months, 30 days restriction to base, and 30 days extra duty (Atch 10, Tab 1).

(3) On or about 9 Oct 99, without authority, you failed to go at the time prescribed to your appointed place of duty, to wit: 60 APS/TRK, in violation of Article 86, UCMJ.

(4) On or about 6 Oct 99, you failed to obey a lawful order issued by TSgt [REDACTED] to not utilize any government telephone within your work section for a period of 3 months (due to prior misuse), by wrongfully utilizing the supervisor's office telephone for at least 30 minutes, as evidenced by a LOR on 8 Oct 99, in violation of Article 92, UCMJ.

(5) On or about 5 Oct 99, you failed to obey a lawful order given by SSgt [REDACTED] to get a haircut before work the following day and TSgt [REDACTED] order on 6 Oct 99 to get a haircut by the following day, by wrongfully coming to work without getting your haircut, as

evidenced by LOR, dated 8 Oct 99, in violation of Article 92, UCMJ. For the offenses in paragraphs 2b(3) through 2b(5), your suspended reduction to the grade of airman was vacated on 3 Nov 99 (Atch 11, Tab 1).

(6) On or about 21 Jan 00, you were derelict in the performance of your duties by willfully failing to refrain from operating your vehicle while your driver's license was suspended, in violation of Article 92, UCMJ. Further, you physically controlled a passenger car while drunk, in violation of Article 111, UCMJ. For driving while your driver's license was suspended and for driving a car while drunk (DUI), you received an Article 15, dated 17 Feb 00, which was placed in your existing UIF. Punishment consisted of reduction to the grade of airman basic and 15 days extra duty (Atch 12, Tab 1).

3. This discharge action could result in your separation with a characterization of under other than honorable conditions (UOTHC) discharge. I am recommending that you receive a UOTHC discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will be probably denied enlistment in any component of the armed forces, and any special pay, bonus, or educational assistance funds may be subjected to recoupment.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board subject to your availability.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. Military legal counsel **Captain [REDACTED]**, 540 Airlift Drive, Bldg. 381, Suite D-100, Travis Air Force Base, California, DSN: 837-4569; Commercial: (707) [REDACTED] has been obtained to assist you on 29 Feb 00 at 1330. 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 AF1 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.

6. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge

authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208, can be made available for your use (upon request).

8. You have been scheduled for a separation physical examination on 28 Feb 00 at 0830. You also have a follow up appointment with the Primary Care Clinic on 28 Feb 00 at 1100 to consult with a physician.

9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

10. The discharge board or discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).

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

[Redacted Signature] Lt Col SAF
Commander

Attachments:

- 1. LOC, 18 Aug 98
- 2. LOC, 19 Aug 98 w/1 Atch
- 3. ✓ RIC, 30 Oct 98 w/2 Atchs
- 4. ✓ LOR, 22 Jun 99
RIC, 11 Jun 99 w/2 Atchs
- 5. ✓ RIC, 21 Jul 99
- 6. ✓ RIC, 21 Jul 99
- 7. ✓ LOR, 9 Oct 99
- 8. -LOR, 10 Dec 99 w/1 Atch; AF Form 1058, 10 Dec 99
- 9. - LOR, 7 Jan 00
- 10. -AF Form 3070, 8 Sep 99 w/Atchs
- 11. AF Form 366, 3 Nov 99 w/Atchs
- 12. AF Form 3070, 17 Feb 00 w/ Atchs
- 13. Other Information:
MFR, 15 Mar 99 w/1 Atch