

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

<b>TYPE GEN</b>		<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>	
<b>YES</b>	<b>No</b>			
	<b>X</b>			

## MEMBER SITTING

### VOTE OF THE BOARD

HON	GEN	UOTHC	OTHER	DENY
				X
				X
				X
				X
				X

**ISSUES**      **A93.09**

**INDEX NUMBER**      **A67.10**

### 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 DATE**

**06 Apr 2005**

**CASE NUMBER**

**FD-2004-00419**

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

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.

Names and votes will be made available to the applicant at the applicant's request.

SIGNATURE OF RECORDER

### INDORSEMENT

DATE: 4/8/2005

**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**

CASE NUMBER

**FD-2004-00419**

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

**ISSUE:** Applicant contends his discharge is reducing his employment opportunities and too harsh due to personal problems. The records indicated the applicant received three Article 15s, four Letters of Reprimand, four Letters of Counseling, and two Records of Individual Counseling. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. Additionally, the Board noted member had successfully completed a prior enlistment. The DRB recognized the applicant was 35 years of age when the discharge took place. The Board was pleased to see the applicant's success, both in the civilian sector and Army National Guard, since his discharge. However, 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.

**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 SRA) (HGH SSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Vandenberg AFB, CA on 28 Apr 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 9 Jul 62. Enlmt Age: 20 11/12. Disch Age: 35 9/12. Educ: HS DIPL. AFQT: N/A. A-53, E-54, G-50, M-74. PAFSC: 4A051 - Health Services Management Journeyman. DAS: 23 Jun 91.

b. Prior Sv: (1) Enlisted ANG 18 Jun 83 for 6 yrs. Svd: 1 yr 4 months 0 days, of which AMS is 4 months 6 days.

(2) Enlisted USAF as A1C 18 Oct 84 for 6 yrs. Extended 14 Sep 89 for 7 months. Extended 4 May 90 for 16 months. Reenlisted as Sgt 23 Aug 90 for 3 yrs. Extended 28 Dec 92 for 10 months. Svd: 9 yrs 5 months 16 days, all AMS. SrA - 18 Feb 87. Sgt - (APR Indicates): 8 Sep 87-8 Aug 88. SSgt - 1 Sep 93. APRs: 9,9,8,9,8,9. EPRs: 3,4,3,3,4.

ART 15: 26 Jan 90, Altus AFB, OK - Article 86. You did, on or about 10 Jan 90, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to A1C. 30 days extra duty (remitted after 1 May 90). (Appeal/Withdrawn)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 4 Apr 94 for 4 yrs. Svd: 4 Yrs 0 Mo 24 Das, all AMS.

b. Grade Status: SRA - 17 Feb 98 (Article 15, 17 Feb 98)

c. Time Lost: None.

d. Art 15's: (1) 17 Feb 98, Vandenberg AFB, CA - Article 128. You, did, on or about 12 Jan 98, assault your wife, [REDACTED] by unlawfully throwing a pot and pitcher at her. Reduction to SrA. (Appeal/Denied) (No mitigation)

(2) 15 Jul 97, Vandenberg AFB, CA - Article 86. You, did, on or about 27 Jun 97, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to SrA. Suspended forfeiture of \$200.00 pay per month for 2 months. (No appeal) (No mitigation)

(3) 30 Dec 96, Vandenberg AFB, CA - Article 86. You, did, on or about 13 Nov 96, 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 [REDACTED] to report to work before 0730, an order which it was your duty to obey, did, on or about 13 Nov 96, fail to obey the same by wrongfully failing to report to work at the prescribed time. Suspended reduction to SrA. (No appeal) (No mitigation)

e. Additional: LOR, 06 FEB 96 - Late for work.  
 LOR, 01 FEB 96 - Late for work.  
 RIC, 25 JAN 96 - Dereliction of duty.  
 RIC, 11 DEC 95 - Unauthorized use of government card.  
 LOR, 15 MAY 95 - Late for work and taking an extended lunch.  
 LOC, 11 APR 95 - Late for work.  
 LOC, 27 JAN 95 - Late for work.  
 LOC, 26 SEP 94 - Late for work.  
 LOC, 10 AUG 94 - Late for work.

f. CM: None.

g. Record of SV: 01 Dec 93 - 30 Nov 94 Vandenberg AFB 3 (Annual)  
 01 Dec 94 - 13 Aug 95 Vandenberg AFB 3 (CRO)  
 14 Aug 95 - 15 Jun 96 Vandenberg AFB 2 (CRO) REF  
 16 Jun 96 - 15 Jun 97 Vandenberg AFB 3 (Annual)

h. Awards & Decs: AFAM, AFLSAR W/ 2 OLCS, AFTR, AFOSSTR, NDSM, SAEMR, NCOPMER W/1 OLC, AFOUA W/2 OLCS, AFGCM W/3 OLCS.

i. Stmt of Sv: TMS: (14) Yrs (10) Mos (11) Das  
 TAMS: (13) Yrs (10) Mos (17) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 7 Oct 04.  
 (Change Discharge to Honorable)

Issue 1: When ever good paying potential employers see my military discharge category it becomes the topic of the interview, greatly reducing my opportunities. I have been a member of the Army National Guard since November 2000 with no negative reports from my unit, in fact I have recieved (sic) the California Commendation Medal. Also, I have been ordered to active duty, deploying in Kosovo. I respectfully request an upgrade from "General/Under Honorable" to "Honorable."

I respectfully request an upgrade of my discharge from Under Honorable Conditions to Honorable. I recieved (sic) a General Discharge due to excessive amount of tardiness; this was a result of marital problems. All of our marital issues were worked out after I got out. This month (Oct.-'04) we will be celebrating twelve years of marriage. Getting out of the service was probaly (sic) the best thing for us at the time in our lives.

I am currently working at a hospital as a security gaurd (sic) (supervisor). I was enrolled in prerequisite courses for radiology; however this came to an end when I was told in August-'04 of my deployment to Kosovo.

My future includes pursuing a radiology/MRI license while in Kosovo, a productive career with the National Gaurd (sic) unit, and an ongoing healthy home.

**ATCH**

1. DD Form 214.
2. Order to Military Duty.
3. California Commendation Medal.

13DEC04/ia



DEPARTMENT OF THE AIR FORCE

30TH SPACE WING (AFSPC)

FD 2004 00419

U.S. AIR FORCE



28 Oct 1997

MEMORANDUM FOR [REDACTED]

FROM: 30 MDOS/SGO

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208  
(Board Entitled)

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.49. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached.

2. My reasons for this action are:

a. On 20 and 23 Sep 94, you were late for duty. You had previously been verbally counseled, by your supervisor, for being late on 10 and 31 Aug 94. As a result, you were given a Letter of Reprimand (LOR) for failure to obey a lawful order or regulation and being absent without leave, 26 Sep 94.

b. On 27 Jan 95, you were approximately 15 minutes late for duty. As a result, you were given a Letter of Counseling (LOC) for failure to report to duty at the prescribed time. Attached to the LOC is a Memorandum for Record (MFR) from [REDACTED] your supervisor at the time, stating he had verbally counseled you for reporting late to work and for taking extended lunch breaks without permission.

c. On 11 Apr 95, you were approximately 5 minutes late for work. In addition to being late on this day, you were 10 minutes late on 30 Mar 95 and 5 minutes late on 3 Apr 95. As a result, you were given an LOC.

d. On 8 May 95, you were late for work. On 9 May 95, you took an extended lunch without permission. Both of these instances were documented with MFRs. As a result of your lateness, you were given an LOR for failure to obey a lawful order or regulation and being absent without leave, 15 May 95.

e. On 1 Feb 96, you were 19 minutes late for duty. As a result, you were given an LOR for failure to obey a lawful order and instruction and being absent without leave.

GOVT EXHIBIT 4  
OFF 2 ADM 5

f. On or about 13 Nov 96, you failed to go at the time prescribed to your appointed place of duty. As a result, on 30 Dec 96, you received Article 15 punishment with reduction to the grade of senior airman suspended until 29 Jun 97.

g. On or about 27 Jun 97, you failed to go at the time prescribed to your appointed place of duty. As a result, on 15 Jul 97, you received Article 15 punishment with reduction to the grade of senior airman suspended until 14 Jan 98 and forfeiture of \$200.00 pay per month of which \$100 pay per month was suspended until 14 Jan 98.

3. If my recommendation is approved, the worst possible characterization of service you may receive is under other than honorable conditions. I am recommending that your service be characterized as general under honorable conditions. 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 discharge action is approved, how your discharge will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. Furthermore, any special pay, bonuses, or education assistance you have received may be subject to recoupment.

4. You have the right to:

- a. Consult counsel;
- b. Present your case to an administrative discharge board;
- 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 any or all of the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] at the Area Defense Counsel, Building 8500, ext. 6-3627/28, at 10:00 hours on 29 Oct 97. Instead of the appointed counsel, you may have another, if the lawyer you request 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.

6. Confer with your counsel and reply, in writing, within 7 duty days, 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 separation authority with the case file to be considered with this recommendation. If you fail to respond within 7 duty days without an approved extension, your failure will constitute a waiver of your right to a board hearing.

7. Any personal information you furnish in rebuttal to this action is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the office of the Area Defense Counsel, Building 8500.

8. 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 a board hearing.

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



Commander

Attachments:

1. Letter of Reprimand, 26 Sep 94
2. Letter of Counseling, 27 Jan 95
3. Letter of Counseling, 11 Apr 95
4. Letter of Reprimand, 15 May 95
5. Letter of Reprimand, 1 Feb 96
6. AF Form 3070, 30 Dec 96
7. AF Form 3070, 15 Jul 97





DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND

FD 2004-00419

U.S. AIR FORCE



20 Feb 98

MEMORANDUM FOR [REDACTED]

FROM: 30 MDOS/SGO

SUBJECT: Amended Notification of Administrative Discharge Action Under AFI 36-3208  
(Board Entitled)

1. On 28 Oct 97, I notified you I was recommending you for discharge from the United States Air Force for minor disciplinary infractions. Since the notification, additional misconduct has been alleged.

2. In addition to the reasons previously stated for discharge on 28 Oct 97, I am recommending your discharge because:

On or about 12 January 1998, you assaulted your wife [REDACTED] by unlawfully throwing a pot and pitcher at her.

3. I continue to recommend your service be characterized as general under honorable conditions.

[REDACTED]  
Commander

FD 2004-00419



## DEPARTMENT OF THE AIR FORCE

30TH SPACE WING (AFSPC)

4 March 1998

MEMORANDUM FOR [REDACTED]

FROM: 30 MDOS/SGO

SUBJECT: Amended Notification of Administrative Discharge Action Under AFI 36-3208  
(Board Entitled)

1. On 28 Oct 97, I notified you I was recommending you for discharge from the United States Air Force for minor disciplinary infractions. On 20 Feb 98, I amended that notification to include the allegation of assault upon your wife. Since the amended notification, investigation has revealed additional misconduct. In addition to the reasons previously stated for discharge on 28 Oct 97 and 20 Feb 98, I am recommending your discharge because:

a. On 9 and 10 Aug 94 you were more than 15 minutes late for duty. As a result, you received a Letter of Counseling (LOC).

b. On 7 Dec 95, you misused your government-issued American Express card at a restaurant. As a result, you were counseled and a Record of Individual Counseling (RIC) was prepared.

c. On 25 Jan 96, you were over 50 minutes late arriving for duty. This tardiness resulted in you delivering patient name plates and identification bracelets to the Medical Unit late, which resulted in surgical delays and was a dereliction of duty. As a result, you were counseled and a RIC was prepared.

d. On 6 Feb 96, you were 17 minutes late for duty. As a result, you received a Letter of Reprimand (LOR), which was placed in an Unfavorable Information File (UIF).

e. Between 1 Jul 96 and 18 Oct 96, you were late arriving for duty in the morning on four occasions and late returning from lunch on four occasions. As a result, you received an LOR.

f. On 20 Feb 97 you were 7 minutes late for duty. As a result, you were verbally counseled by your supervisor [REDACTED] who prepared a Memorandum for Record (MFR).

g. On divers occasions since July 1993, you have physically and emotionally abused your wife, [REDACTED]

2. I continue to recommend your service be characterized as general.

GUARDIANS OF THE HIGH FRONTIER

GOVT EXHIBIT

OFF 2 ADM/5

Page 1 of 2 pages

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3 In order to allow you sufficient time to review and respond to the additional allegations of misconduct, the discharge board hearing originally scheduled for 3 Mar 98 has been delayed until 17 Mar 98.

  
Commander

7 Atch

1. LOC, 10 Aug 94
2. RIC, 11 Dec 95
3. RIC, 25 Jan 96
4. LOR, 6 Feb 96
5. LOR, 28 Oct 96
6. MFR, 20 Feb 97
7. Family Advocacy Records