

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					
	X					
MEMBER SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A95.00	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			
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
			TAPE RECORDING OF PERSONAL APPEARANCE			
HEARING DATE 02 Aug 2005	CASE NUMBER FD-2005-00166					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
<p>Case heard at Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>						
INDORSEMENT						
TO:		DATE: 8/2/2005				
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-2005-00166

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 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 that would justify a change of discharge.

ISSUE: Applicant submitted no issues. The records indicated the applicant received two Article 15s for larceny and dereliction of duty. He also received two Letters of Reprimand for DWI and driving his vehicle on base while his base driving privilege was suspended. The DRB opined that through these 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. 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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Luke AFB, AZ on 28 Mar 02 UP AFI 36-3208, para 5.50.1 (Misconduct - Discreditable Involvement With Military or Civil Authorities). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 9 Sep 80. Enlmt Age: 20 4/12. Disch Age: 21 6/12. Educ: HS DIPL. AFQT: N/A. A-63, E-75, G-70, M-89. PAFSC: 2A636 - Aircraft Electronic & Environmental Systems Apprentice. DAS: 15 Oct 01.

b. Prior Sv: (1) AFRes 9 Nov 00 - 13 Nov 00 (4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 14 Nov 00 for 6 yrs. Svd: 1 Yrs 4 Mo 15 Das, all AMS.

b. Grade Status: AB - 6 Mar 02 (Article 15, 6 Mar 02)
 Amn - 19 Jul 01 (Article 15, 19 Jul 01)
 A1C - 29 Dec 00

c. Time Lost: None.

d. Art 15's: (1) 6 Mar 02, Luke AFB, AZ - Article 92. You, who knew of your duties, on divers occasions between on or about 1 Dec 01 and on or about 25 Feb 02, were derelict in the performance of those duties in that you willfully failed to refrain from driving on base while your base driving privilege was suspended, as it was your duty to do. Reduction to AB. Suspended forfeiture of \$150.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 19 Jul 01, Sheppard AFB, TX - Article 108. You did, on or about 24 May 01, without proper authority, willfully damage by prying open with a metal crow bar a door, military property of the United States, the amount of said damage being in the sum of about \$409.42. Article 121. You did, on or about 24 May 01, steal one computer tower, one Intel mouse, one computer game pad, three computer speakers, one portable CD player, one Play Station, and one Amplifier, of a value of over \$100.00, the property of [REDACTED]. Article 130. You did, on or about 24 May 01, unlawfully enter the dormitory room of another, the property of the United States, with intent to commit offense, to wit: larceny,

therein. Reduction to Airman, forfeiture of \$300 pay for 2 months, and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR/UIF, 24 FEB 02 - Driving his vehicle on base while his base driving privilege was suspended (Document missing from file).
LOR, 04 DEC 01 - Charged by Civilian Authorities for Extreme Driving Under the Influence (.18 BAC), Speeding, and Breaking Traction (Document missing from file).
- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (1) Yrs (4) Mos (20) Das
TAMS: (1) Yrs (4) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 20 Apr 05.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
None.

26MAY05/ia



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

FD 2005-00168

27 Mar 02

MEMORANDUM FOR 56 FW/CC

FROM: 56 FW/JA

SUBJECT: Legal Review of Administrative Discharge - [REDACTED]

1. ACTION: This case is before you for review and action in your capacity as the separation authority. The 310 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 5.50.1, Discreditable Involvement with Military and Civil Authorities. I concur.

2. BACKGROUND: The Respondent is 21 years old and has been on active duty in the United States Air Force for approximately 1 year and 4 months of his initial 6 year enlistment. His AQE scores are: Admin - 63; Elect - 75; Gen - 70; and Mech - 89. His awards and decorations include the Air Force Training Ribbon.

3. FACTS: On 22 Mar 02, 310 FS/CC initiated administrative discharge proceedings against the Respondent. The following actions from the Respondent's current enlistment establish a basis for discharge under paragraph 5.50.1, Discreditable Involvement with Military and Civil Authorities:

a. On 24 May 01, the Respondent willfully damaged military property of the United States by prying open a door with a metal crow bar. He also entered the dormitory room of another with intent to commit larceny and stole a computer tower, Intel mouse, computer game pad, three computer speakers, CD player, Play Station and Amplifier. For this misconduct he received an Article 15 on 19 Jul 01. His punishment included reduction to the grade of E-2, forfeiture of \$300 pay per month for 2 months and a reprimand. An Unfavorable Information File (UIF) was established.

b. On 30 Nov 01, the Respondent was charged by civilian authorities for Extreme Driving Under the Influence (.18 BAC), Speeding and Breaking Traction. For this misconduct he received a Letter of Reprimand on 4 Dec 01. This action was filed in his existing UIF.

c. On 21 Feb 02, the Respondent failed to obey an order or regulation by driving his vehicle on base while his base driving privilege was suspended. For this misconduct he received a Letter of Reprimand on 24 Feb 02.

d. On divers occasions between on or about 1 Dec 01 and 25 Feb 02, the Respondent was derelict in the performance of his duties in that he failed to refrain from driving on base while his base driving privilege was suspended. For this misconduct he received an Article 15 on 6 Mar 02. His punishment included reduction to the grade of E-1 and suspended forfeiture of \$150 pay per month for 2 months. This action was filed in his existing UIF.

4. RESPONDENT'S MATTERS: The Respondent met with military defense counsel and has waived his right to submit matters for your consideration.

[REDACTED]

5. CHARACTERIZATION OF DISCHARGE: The 310 FS/CC recommends a general service characterization for the Respondent'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. In this case, the Respondent received two Letters of Reprimand and two Article 15s. The Respondent's most egregious misconduct occurred on 24 May 01 when he stole several electronic items from a military dorm room, and on 30 Nov 01 when he committed a civilian DUI with a .18 BAC. The negative aspects outweigh the positive aspects of his service record and 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 is clearly contrary to the best interests of good order and discipline. The Respondent has not responded 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. This file has been prepared in substantial compliance with the provisions of AFI 36-3208. 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 board procedures.

9. RECOMMENDATION: Based on the foregoing, I recommend you separate the Respondent from the United States Air Force for Discreditable Involvement with Military and Civil Authorities under AFI 36-3208, paragraph 5.50.1, with a general service characterization without probation and rehabilitation.

