

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>			GRADE <div style="background-color: black; width: 100%; height: 1.2em;"></div>		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>		
TYPE GEN	X	PERSONAL APPEARANCE			RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION AMERICAN LEGION			ADDRESS AND OR ORGANIZATION OF COUNSEL 1608 K STREET NW WASHINGTON DC 20006		
YES	No						
X							
MEMBER SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
			X+				
			X+				
			X+				
			X+				
ISSUES A94.06 A93.22		INDEX NUMBER A67.10		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 01 Nov 2005		CASE NUMBER FD-2005-00300					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p> <p>+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY</p>							
INDORSEMENT				DATE: 11/2/2005			
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-2005-00300**

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB on 01 Nov 2005. The following witnesses also testified on the applicant's behalf: Mr. M.O. and Mrs. B. O.

The following additional exhibits were submitted at the hearing:

- Exhibit 5: Applicant's Contentions
- Exhibit 6: CCAF Graduation Notification Ltr, 15 Apr 05
- Exhibit 7: UMUC Graduation Notification Ltr, 31 Oct 05
- Exhibit 8: Aviano Yearly Climate Report
- Exhibit 9: Three Character Statements (SrA W, SrA S., and SSgt W.)
- Exhibit 10: 31 FW/CC Sponsorship Policy Program Ltr, 15 Sep 04
- Exhibit 11: IG Ruling, 12 Jul 05
- Exhibit 12: Terminal Leave Forms

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

ISSUE: Applicant contends discharge was inequitable because it was too harsh and medical problems prevented him from performing his duties. The records indicated the applicant received an Article 15, a vacation action, one Letter of Reprimand, one Letter of Counseling, two Records of Individual Counseling, and a traffic ticket. His misconduct included late for duty, failure to go, false official statement, dereliction of duty, sleeping on duty on two occasions, and speeding. While the Board did not condone applicant's misconduct, which was a departure from conduct expected of all military members, they also noted applicant was not involved in serious criminal misconduct, and there were extenuating circumstances that may have predicated some of the incidents. But for these offenses, applicant was a good airman and citizen, and has continued to be a good citizen since his discharge. Therefore, the Board found sufficient mitigation at this time to render the characterization of the discharge received by the applicant too harsh. The Board found the evidence submitted by the applicant sufficient to warrant an Honorable discharge and to change the reason and authority for the discharge.

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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable and Secretarial Authority; under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED] (Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Shaw AFB, SC on 27 Jun 05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 4 Jul 81. Enlmt Age: 17 7/12. Disch Age: 23 11/12. Educ: HS DIPL. AFQT: N/A. A-43, E-47, G-34, M-27. PAFSC: 2W151 - Aircraft Airlift Armaments Systems Journeyman. DAS: 27 Mar 03.

b. Prior Sv: (1) AFRes 26 Feb 99 - 20 Jul 99 (4 months 25 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 21 Jul 99 for 6 yrs. Svd: 5 Yrs 11 Mo 06 Das, all AMS.

b. Grade Status: A1C - 7 Jan 05 (Vacation of Article 15, 14 Feb 05)
SrA - 21 Nov 01

c. Time Lost: None.

d. Art 15's: (1) 14 Feb 05, Vacation, Aviano AB, Italy - Article 92. You, who knew of your duties, on or about 22 Jan 05, were derelict in the performance of those duties in that you willfully failed to wear your BDU top and carry your military identification card, as it was your duty to do. Reduction to A1C. (No appeal) (No mitigation)

(2) 7 Jan 05, Aviano AB, Italy - Article 92. You, who knew of your duties, on or about 30 Nov 04, were derelict in the performance of those duties in that you willfully failed to refrain from sleeping on duty, as it was your duty to go. You, who knew of your duties, on or about 9 Dec 04, were derelict in the performance of those duties in that you willfully failed to refrain from sleeping on duty, as it was your duty to do. Suspended reduction to A1C. Forfeiture of \$250.00 pay, 20 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOC, 24 JAN 05 - Failure to go.
LOR, 06 DEC 04 - False official statement.
RIC, 20 OCT 04 - Late for duty.
TRAFFIC TICKET, 15 DEC 03 - Speeding.
RIC, 25 NOV 03 - Late for duty (Listed on Legal Review, but

missing from file).

f. CM: None.

g. Record of SV: 21 Jul 99 - 20 Mar 01 Hill AFB 3 (Initial)
 21 Mar 01 - 14 Dec 01 Hill AFB 4 (CRO)
 15 Dec 01 - 16 Dec 02 Kunsan AB 5 (Annual)
 17 Dec 02 - 16 Dec 03 Aviano AB 4 (Annual)
 17 Dec 03 - 16 Dec 04 Aviano AB 3 (Annual)

h. Awards & Decs: AFTR, NDSM, AFLSAR, KDSM, GWOTEM, GWOTSM, AFOUA, AFTR.

i. Stmt of Sv: TMS: (06) Yrs (04) Mos (01) Das
 TAMS: (05) Yrs (11) Mos (06) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 22 Jul 05.
 (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Eight Character References.
3. Memo, Impact of Fatigue On Duty Performance, 23 Mar 05.
4. Memo For 31 AMXS/CC, Medical Background, 22 Mar 05.
5. Doctor's Report, 22 Mar 04.
6. Character Reference.
7. Letter of Appreciation.
8. Medical Documentation.
9. Witness Statement, 1 Jul 05.
10. Chronological Record of Medical Care.
11. Medical Assessment.

31AUG05/ia



DEPARTMENT OF THE AIR FORCE

FD2005-00300

8 July 2005

MEMORANDUM FOR SAF/MRBR

FROM: [REDACTED]

SUBJECT: Discharge Upgrade

1. To whom it may concern, I am writing this response to respectfully request that my general discharge be upgraded to an honorable discharge. I understand that I received an Under Honorable Conditions (General) discharge for misconduct-minor disciplinary infractions.
2. I would like to take the opportunity to respond briefly to some of them.
 - a. On or about 21 November 2003, I failed to report on time for duty. I was late for work that day because my uncle had been involved in a serious vehicle accident. I spoke with the first shirt about the accident and was given the prior day off. On that day I went and spoke with a chaplain, but I was still rattled by the whole incident, and unable to sleep. When I finally fell asleep, I was really tired because I didn't sleep the day before, and I overslept.
 - b. On or about 15 December 2003, I received an Armed Forces traffic Ticket for speeding. For this incident, four points were assessed against my driving record. On 15 December 2003, I was working on mid-shift, and the day before I was told by my expeditor that I was a sponsor to [REDACTED] and he was going to catch a ride with another airman from our shop. I received a call from [REDACTED] at work. He told me that no one showed to pick him up. I told the expeditor, who released me to pick him up, but he told me to hurry up because my crew was in the middle of a job. I left the shop at about 0710 to go and get [REDACTED]. When I came back on base I was in a hurry because I didn't want him to be late on his first day to work, and I wanted to get back to help my crew.
 - c. On or about 20 October 2004, nearly one year after I was first late to work, I failed to report on time for duty. That month, there was an excessive amount of rain which was causing mold to grow. I am allergic to mold, and my allergies were acting up. I was also diagnosed with having enlarged tonsils, which caused me to get sick frequently. On 19 October 2004 I was standing outside in the rain for the majority of the day and the next day I had a fever, and was really sick. I opted not to go to sick call because we were low-manned and my supervisor told me that after roll call I was not going to be allowed to leave. He let me leave to get my medicine; I then returned to the shop four minutes late.
 - d. Concerning the offenses for which I received an Article 15, I was derelict in the performance of my duties in that I was found sleeping on duty. I have sleep Apnea which is a serious disease with many side effects. Documented side effects include: excessive

drowsiness, headaches, fatigue, depression, irritability and falling asleep while at work, on the phone, or driving. I was also working mid-shift, and I had to escort an Airman whom I was sponsoring during his day-shift. I made many attempts to tell my supervisor about the overload and my medical conditions, but no action was taken. I was simply exhausted and not sleeping well.

3. I do not reference these incidents to avoid accountability; I just feel that some of the incidents could have been avoided if there had been better communication between myself and my supervisor. The majority of my problems began in September 2004, because I was dealing with an assortment of different medical conditions, mainly sleep apnea. I was also dealing with other medical conditions like insomnia, tonsillitis, adenoiditis, bronchitis, etc, which are indicated in my medical records. At times my health problems made it extremely difficult for me to concentrate. I made many attempts to seek medical help, I also notified my supervisor of medical problems. In March 2005 I had surgery in order to fix a lot of these problems. Five of the seven disciplinary infractions were in the last six months while I was dealing my medical condition, and the two infractions were a direct result of my sleeping disorder. My ongoing health problems at the time were extremely difficult for me, both mentally and physically. I am sorry that I allowed my personal problems to affect my work performance, which eventually led to my separation. However, I feel I was able to learn from the above incidents and have since gotten my life under control. Since my surgery my health has improved.

4. The Air Force was an overall great experience for me. I was able to serve for 5 years and 11 months. I joined the Air Force because of a sincere desire to serve my country and make a difference; I also wanted to see new things and experience different cultures. The military is very important to me. My father retired after 23 years of service; I also have two younger brothers in the Army fighting in Iraq. I have always had great respect for the military and those who serve. I will always be grateful for the many lessons that I learned and my personal development while serving in the military. I wanted the opportunity to help other people the same way other people have helped me. The last six years have been wonderful for me. I was able to attend school, travel, and meet some really great people. While deployed down range to Qatar last year, I was one of three weapons troops chosen to forward deploy Baghdad, Iraq, to help recover an F-16 that had to divert due to a broken hydraulic pump. I have also been a part of numerous squadron functions, and I'm an active member with AADD.

5. The Air Force means a lot to me, and I regret my enlistment was cut short due to minor disciplinary infractions, which were caused by medical problems. I have already taken steps to start giving back to the military community that has given me so much by starting a project that will hopefully bring a taxi service to Aviano AB. I believe that this project will improve the living conditions for military members serving at Aviano AB. I also believe that this project has the potential to save a life.

6. An Honorable discharge means a lot to me and my family, and I believe it is what most accurately reflects my performance as an Airman. This is why I respectfully ask you to please consider upgrading my discharge from a general to an Honorable Discharge. I have a family that I must provide for. Please consider the above information and the following attachments before making your final recommendation. I just want the opportunity to become a productive citizen,

and provide for my family. I know an Honorable discharge will equip me to be able to provide a better life for me and my family. Thank you.

RONALD WHERRY



FD2005-60300

DEPARTMENT OF THE AIR FORCE
31ST FIGHTER WING (USAF)

MEMORANDUM FOR 31 FW/CC

JUN 10 2005

FROM: 31 FW/JA

SUBJECT: Administrative Discharge Action, A1C [REDACTED]
SSN: [REDACTED]

1. I have reviewed the following conditional waiver of discharge board and find it legally sufficient. On 26 May 2005, the respondent submitted a conditional waiver of board hearing for misconduct. This case is forwarded to you, as the Separation Authority, in accordance with AFI 36-3208, paragraph 6.26, for action.

2. Background:

a. The respondent is a 23-year-old Airman First Class, assigned to the 31st Aircraft Maintenance Squadron (31 AMXS). His TAFMSD is 21 July 1999 and he began his 6-year enlistment on 21 July 1999. His delayed enlistment date is 26 February 1999. He was assigned to his present unit on 27 March 2003. His AQE scores are Admin - 43, Elect - 47, Gen - 34, and Mech - 27. The respondent has received five Enlisted Performance Reports (EPRs) with one rating of "5," two ratings of "4," and two rating of "3." He is entitled to wear the Air Force Training Ribbon, the National Defense Service Medal, the Air Force Longevity Service Award, the Air Force Good Conduct Medal, the Air and Space Campaign Medal, the Korean Defense Service Medal, and the Global War on Terror Service Ribbon.

b. On 17 May 2005, 31 AMXS/CC notified the respondent of his recommendation to forward the case to an Administrative Discharge Board with a recommendation of an Under Honorable Conditions (General) discharge under the provisions of AFI 36-3208, Chapter 5, paragraph 5.49, for Misconduct: Minor Disciplinary Infractions. The respondent is entitled to a board hearing according to AFI 36-3208, paragraph 6.2.2, however, he has submitted a conditional offer to waive this entitlement.

3. Basis for Discharge: In accordance with AFI 36-3208, paragraph 5.49, a pattern of misconduct consisting solely of minor disciplinary infractions in the current enlistment makes an Airman subject to discharge. The infractions under this section may involve failure to comply with nonpunitive regulations or minor offenses under the UCMJ. Infractions of this type result, as a rule, in informal (reduced to writing) or formal counselings, letters of reprimand, or Article 15 nonjudicial punishment.

4. Summary of Evidence for the Government:

a. On 26 November 2003, the respondent received a Record of Individual Counseling (RIC) for failing to report for duty on time.

"Return With Honor"

b. On or about 15 December 2003, the respondent received an Armed Forces Traffic Ticket and four points assessed against his driving record for speeding.

c. On 20 October 2004, the respondent received an RIC for failing to report for duty on time.

d. On 6 December 2004, the respondent received a Letter of Reprimand (LOR) for making false statements that he had pink eye and had scheduled doctors appointments. He was released from duty based on his false statements.

e. On 7 January 2005, the respondent received an Article 15 for being derelict in the performance of his duties in that he was found sleeping on duty. Additionally, this action was used to establish his Unfavorable Information File (UIF).

f. On 24 January 2005, the respondent received a Letter of Counseling (LOC) for failing to show for a mandatory Maintenance Orientation appointment.

g. On 14 February 2005, the suspended portion of the Article 15 punishment was vacated due to the respondent being derelict in the performance of his duties in that he failed to wear his BDU top and carry his military identification card. Additionally, the Vacation Action was added in his UIF.

5. **Summary of Evidence for the Respondent:** The respondent consulted with military defense counsel and submitted a Conditional Waiver of Board Hearing memorandum waiving his right to an administrative board hearing on the condition that he receive no less than an Under Honorable Conditions (General) service characterization. The respondent did not submit additional matters.

6. Discussion:

a. **A basis for discharge exists and the respondent should be discharged under that provision.** In accordance with AFI 36-3208, paragraph 5.49, a pattern of misconduct consisting solely of minor disciplinary infractions in the current enlistment makes an Airman subject to discharge. Minor disciplinary infractions are defined, for this purpose, as failure to comply with nonpunitive instructions or minor offenses under the UCMJ that result in informal (reduced to writing) or formal counselings, LORs, or Article 15s. In his current enlistment, the respondent has received one Armed Forces traffic ticket, two RICs, one LOC, one LOR, an Article 15, a Vacation action, and the establishment of a UIF. Based on the respondent's substantial record of misconduct, he should be discharged.

b. **The respondent should receive a General discharge.** According to AFI 36-3208, table 1.3, Rule 11, the service of persons identified for discharge for misconduct may be characterized as Honorable, Under Honorable Conditions (General), or Under Other Than Honorable Conditions (UOTHC). An Honorable discharge is warranted when the quality of the Airman's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate. A general discharge is appropriate when "significant negative aspects of the Airman's conduct or performance of duty outweigh positive aspects of the Airman's military record." A UOTHC is appropriate when basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct

expected of Airman. In this case, 31 AMXS/CC recommended a General service characterization.

c. **Probation and Rehabilitation (P&R).** According to AFI 36-3208, paragraph 7.2.7, the separation authority may offer P&R in any case where there seems to be a reasonable expectation of rehabilitation. The respondent's clear disregard for military standards demonstrates his poor rehabilitative potential. Therefore, I do not recommend probation and rehabilitation in conjunction with this discharge.

7. **Errors and Irregularities:** We find no errors or irregularities prejudicial to the respondent's substantive or procedural rights.

8. **Options:** According to AFI 36-3208, Chapter 6, paragraph 6.26, as the separation authority in this case, you may:

a. Reject the conditional waiver and direct the respondent either submit an unconditional waiver or a request for a board hearing; or

b. Recommend acceptance of the conditional waiver and forward this case to 16 AF/CC for approval.

5. **Recommendation:** I recommend you accept the respondent's conditional waiver of his right to a discharge board and recommend that the respondent receive an under honorable conditions (General) discharge. A proposed memorandum for your signature is attached.



MARLESA KAI SCOTT, Major, USAF
Deputy Staff Judge Advocate

Attachments:

1. Commander's Recommendation
2. Copy of Notification Memo w/atchs
3. Receipt of Notification Memo/Extension Ltr/Conditional Waiver Ltr/Recoupment Ltr
4. EPRs
5. Medical Examination
6. 6-Part RIP/ID Card Ltr/Finance Ltr