

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE  AMN	AFSN/SSAN  <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
COUNSEL YES      No <b>NO</b>		NAME OF COUNSEL AND OR ORGANIZATION  ADDRESS AND OR ORGANIZATION OF COUNSEL	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES <b>A94.53</b>	INDEX NUMBER <b>A66.00</b>	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		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 HE

HEARING DATE <b>01 Dec 2006</b>	CASE NUMBER <b>FD-2005-00123</b>	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard in 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.

ENDORSEMENT  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
DATE: 12/12/2006	

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2005-00123**

**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.

**ISSUE:**

Although not explicitly stated, applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received three Article 15's and two Letters of Reprimand for misconduct. The applicant was administratively disciplined with two Letters of Reprimand for being late for training, failure to go, and failure to pay debts. He received his first Article 15 for sleeping on post while being posted as a sentinel. He was disciplined with a suspended reduction in grade to Airman, suspended forfeiture of pay, and 19 days of extra duty. His second Article 15 was for failure to have a valid Government driver's license and through his own neglect, causing damage to a government vehicle. He was disciplined with forfeiture of pay for two months. His third Article 15 was for failure to go to appointed place of duty. He was punished with a reduction in grade to Airman. 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 AMN) (HGH A1C)

SOME DISCHARGE DOCUMENTS MISSING

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Luke AFB, AZ on 23 Aug 04 UP AFI 36-3208, para 5.49 (Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 2 Dec 81. Enlmt Age: 19 6/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-71, E-36, G-41, M-37. PAFSC: 3P031 - Security Forces Apprentice. DAS: 7 Nov 03.

b. Prior Sv: (1) AFRes 27 Jun 01 - 17 Sep 01 (2 months 22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 18 Sep 01 for 4 yrs. Svd: 2 Yrs 11 Mo 6 Das, all AMS.

b. Grade Status: Amn - 17 Jul 04 (Article 15, 17 Jul 04)  
A1C - 18 Jul 02

c. Time Lost: None.

d. Art 15's: (1) 17 Jul 04, Osan AB, Korea - Article 86. You, did, on or about 4 Jul 04, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman. (No appeal) (No mitigation)

(2) 20 Jan 04, Osan AB, Korea - Article 92. You did, on or about 7 Dec 03, violate a lawful general regulation, to wit: paragraph 2.1.2, 51<sup>st</sup> Fighter Wing Instruction 31-204, dated 15 May 03, by wrongfully failing to have a valid Government-Owned Vehicle driver's license in your possession while operating a Government-Owned Vehicle. Article 108. You did, on or about 7 Dec 03, without proper authority, through neglect, damage by rolling a Government-Owned Vehicle, a vehicle of a value of about \$73,123.00, military property of the United States, the amount of said damage being in the sum of about \$1,801.55. Forfeiture of \$747.00 pay per month for two months. (No appeal) (No mitigation)

(3) 22 Nov 02, Offutt AFB, NE - Article 113. You, on or about 14 Nov 02, being posted as a sentinel at post Echo-13, were found sleeping upon your post. Suspended reduction to Airman. Suspended forfeiture of \$250.00

pay. Nineteen days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 26 MAY 04 - Failure to pay debts & failure to go.  
(Document missing from file)  
LOR, 01 OCT 02 - Late for training. (Document missing from file).
- f. CM: None.
- g. Record of SV: 18 Sep 01 - 18 May 03 Offutt AFB 2 (Annual)REF  
19 May 03 - 28 Jun 04 Osan AB 2 (Annual)REF
- h. Awards & Decs: NDSM, AFTR, AFOSSTR.
- i. Stmt of Sv: TMS: (3) Yrs (1) Mos (28) Das  
TAMS: (2) Yrs (11) Mos (6) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01 Mar 05.  
(Change Discharge to Honorable)

Feel that I qualify for an Honorable discharge.

**ATCH**

1. DD Form 149.

11MAY05/ia

FD 2005-00123



DEPARTMENT OF THE AIR FORCE

51<sup>st</sup> Security Forces Squadron

UNIT 2063

APO AP 96278-2063

05 AUG 2004

MEMORANDUM FOR AMN [redacted] 51 SFS

FROM: 51 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force based upon Misconduct-Minor Disciplinary Infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, Section H, paragraph 5.49. If my recommendation is approved, your service will be characterized as Honorable, Under Honorable Conditions (General), or Under Other Than Honorable Conditions. I am recommending that you receive an Under Honorable Conditions (General) discharge.

2. My reasons for this discharge action are as follows:

a. You did, at or near Offutt AFB, NB on or about 30 Sep 02, you were late for training at your appointed place of duty, to wit: Building 160. For this misconduct you received a Letter of Reprimand, dated 1 Oct 02 and an Unfavorable Information File. (Atch 1a)

b. You, at or near Offutt AFB, NB on or about 14 Nov 02, being posted as a sentinel at post Echo-13, were found sleeping upon your post. For this misconduct you received an Article 15, dated 22 Nov 02. (Atch 1b)

c. You did, at or near Osan AB, ROK on or about 25 May 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 1425. For this misconduct you received a Letter of Reprimand, dated 26 May 04. (Atch 1c)

d. You, being indebted to Military Star Card in the sum of \$102.00 for purchases of goods and services, which amount became due and payable on or about 4 Mar 04, did at or near Osan AB, ROK, from on or about 4 Mar 04, to on or about 4 May 04, fail to pay said debt for a period of at least 60 days. For this misconduct you received a Letter of Reprimand, dated 26 May 04. (Atch 1d)

e. You did, at or near Osan AB, ROK on or about 7 Dec 03, violate a lawful general regulation, to wit: paragraph 2.1.2, 51<sup>st</sup> Fighter Wing Instruction 31-204, dated 15 May 03, by wrongfully failing to have a valid Government-Owned Vehicle driver's license in your possession while operating a Government-Owned Vehicle.

f. You did, at or near Osan AB, ROK on or about 7 Dec 03, without proper authority, through neglect, damage by rolling a Government-Owned Vehicle, a vehicle of a value of about \$73,123.00, military property of the United States the amount of said damage being in the sum of

the sum of about \$1,801.55. For the misconduct listed in paragraphs (e) and (f) he received an Article 15, dated 20 Jan 04. (Atch 1e)

g. The Respondent did, at or near Osan AB, ROK on or about 4 Jul 04, without authority, fail to go at the time prescribed to his appointed place of duty, to wit: Building 1425. For this misconduct he received an Article 15, dated 17 Jul 04. (Atch 1f)

3. **Unit Recommendations:** The 51 SFS/CC recommends that Airman [REDACTED] receive an Under Honorable Conditions (General) discharge, without suspension for probation and rehabilitation (P&R).

4. **Member's Response:** On 10 Aug 04, Amn [REDACTED] consulted counsel and submitted a statement for your consideration. Amn [REDACTED] joined the Air Force because of his desire to serve his country and do something more fulfilling with his life. Although he admits that he has not adapted well to the Air Force, he excelled in all technical training courses obtaining scores of 90 or better and has volunteered his off duty time to numerous organizations. After he leaves the service, the Respondent plans to attend Arizona State University, obtain a Bachelor of Science degree in business administration and to one day work as a Civil Service employee. The Respondent asks that you direct his characterization as Honorable so he can use his educational benefits and potentially gain government employment.

5. **Legal Analysis:**

a. **Basis:** AFI 36-3208, paragraph 5.49, authorizes separation based on Misconduct - Minor Disciplinary Infractions. As described in paragraph 2, the Respondent has engaged in numerous instances of misconduct. His repeated misconduct is the basis for discharge.

b. **Service Characterization:** AFI 36-3208, para. 1.18.2 states that an Under Honorable Conditions (General) discharge is appropriate if an Airman's service has been honest and faithful, but when significant negative aspects of his conduct or performance of duty outweigh positive aspects of his military record. The Respondent's conduct has resulted in three Article 15s, three LORs, and the establishment of a UIF. As such, we concur with the commander's view that significant aspects of the respondent's conduct outweigh positive aspects of his military record. Thus, we find that an Under Honorable Conditions (General) discharge characterization is appropriate.

c. **Probation and Rehabilitation (P&R):** The corrective action provided to the Respondent has served as sufficient P&R. He was given the opportunity to show improvement in his behavior but consistently showed an unwillingness to correct it. As a result, we do not believe P&R is warranted pursuant to AFI 36-3208, Chapter 7. Nonetheless, should you decide that P&R is appropriate; you must set a specific period of rehabilitation in accordance with AFI 36-3208, paragraph 7.6.2. This period may not be less than 6 months nor more than 12 months.

6. **Options:** As the Special Court-Martial Convening Authority, you have the option to:

a. Retain the Respondent in the Air Force;

about \$1,801.55. For the misconduct listed in paragraphs (e) and (f) you received an Article 15, dated 20 Jan 04. (Atch 1e)

g. You did, at or near Osan AB, ROK on or about 4 Jul 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 1425. For this misconduct you received an Article 15, dated 17 Jul 04. (Atch 1f)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. 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 you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel is available to assist you. You may consult the Area Defense Counsel (Bldg 937, Rm 101) at 784-6774. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements that you want the separation authority to consider must reach me by 1900 hours on 10 AUG 04 (three duty days) unless you request and receive an extension for good cause. I will forward any such statements to the separation authority.

6. If you fail to consult or submit statements in your own behalf, then your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the hospital at 0800 hours on 6 AUGUST 2004.

8. The Privacy Act of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available at the Orderly Room.

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

[Redacted signature box]

Commander

Attachments:

1. Supporting documents
  - a. Letter of Reprimand, dated 1 Oct 02
  - b. Article 15, dated 22 Nov 02
  - c. Letter of Reprimand, dated 26 May 04