

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 A1C	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

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

ISSUES A95.00 A01.00	INDEX NUMBER A67.90 A28.10	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE HE</td></tr> </table>	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
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HEARING DATE 05 Oct 2006	CASE NUMBER FD-2005-00432
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.

INDORSEMENT TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	DATE: 10/16/2006 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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00432

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 received a General discharge for Pattern of Misconduct--Conduct Prejudicial to Good Order and Discipline and Condition that Interferes with Military Service--Mental Disorder

Applicant did not submit any issues regarding the inequity or impropriety of his discharge, but did submit that the characterization of his discharge has prevented him from obtaining federal and contracting jobs. He would like his discharge upgraded to have access to better job opportunities. The records indicate that the applicant received an Article 15 with a vacation, seven Letters of Reprimand, a Letter of Counseling and a Memorandum for Record for misconduct to include disobeying a lawful order, dereliction of duty, disrespect to a superior commissioned officer, failure to obey and order or regulation, failure to meet standards of duty performance and training, failure to go, and failure to maintain standards. In addition, the records show that the applicant had demonstrated a pattern of maladjustment throughout his military service and despite intervention had not acquired the substantial skills to deal with work stressors and lacked the motivation for self-improvement; future prognosis for adjustment to military standards of behavior was considered poor. After review of the records the board was not able to determine any mitigating correlation between the applicant's conduct and his medical condition; no inequity or impropriety was suggested or found in the course of reviewing the records. The Board concluded that the characterization of the discharge received by the applicant was 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 A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Andrews AFB, MD on 13 Dec 04 UP AFI 36-3208, para 5.50.2 & 5.11.9 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline and Condition that Interferes with Military Service - Mental Disorder). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 15 Mar 81. Enlmt Age: 18 11/12. Disch Age: 23 8/12. Educ: HS DIPL. AFQT: N/A. A-50, E-44, G-46, M-34. PAFSC: 3P051 - Security Forces Journeyman. DAS: 12 Jul 03.

b. Prior Sv: (1) AFRes 7 Mar 00 - 11 Apr 00 (1 month 5 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Apr 00 for 6 yrs. Svd: 04 Yrs 08 Mo 02 Das, all AMS.

b. Grade Status: A1C - 20 Aug 04 (Article 15, 20 Aug 04)
SrA - 26 Sep 02
A1C - 26 May 00

c. Time Lost: None.

d. Art 15's: (1) 21 Oct 04, Vacation, RAF Alconbury, UK - Article 86. You did, on or about 4 Oct 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 586, Base Fitness Center. Forfeiture of \$792.00 pay. (No appeal) (No mitigation)

(2) 20 Aug 04, RAF Alconbury, UK - Article 86. You, did, on or about 11 May 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: the Specialty Knowledge Test portion of your Weighted Airman Promotion System test at Building 592, Chapel Annex, RAF Alconbury, UK. You, did, on or about 16 Jul 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Annual Security Forces Weapons Training at Building 612, RAF Molesworth, UK. Reduction to A1C. Suspended forfeiture of \$792.00 pay. Fourteen days extra duty, and a reprimand. (Appeal/Denied) (No mitigation)

e. Additional: CR, 21 JUL 04 - Sustained pattern of poor duty performance.
LOR/UIF, 05 JUL 04 - Failure to maintain minimum standards.
LOR/UIF, 06 MAR 04 - Failure to go.

LOC/UIF, 15 FEB 04 - Failure to go.
 LOR, 10 SEP 02 - Failure to obey an order.
 LOR, 15 AUG 02 - Failure to meet the standards of duty
 performance and training.
 LOR, UNDATED - Failure to obey an order.
 LOR, UNDATED - Disrespect to a commissioned officer.
 MFR, UNDATED - Dereliction of duty.
 LOR/UIF, 19 MAR 01 - Failure to obey an order.

f. CM: None.

g. Record of SV: 12 Apr 00 - 11 Dec 01 Tinker AFB 3 (Initial)
 12 Dec 01 - 11 Dec 02 Tinker AFB 3 (Annual)
 12 Dec 02 - 11 Dec 03 RAF Alconbury 3 (Annul)

h. Awards & Decs: AFTR, NDSM, AFEM, AFLSAR, AFOUA W/VALOR W/2 OLCS,
 AFGCM, AFOSLTR.

i. Stmt of Sv: TMS: (04) Yrs (09) Mos (07) Das
 TAMS: (04) Yrs (08) Mos (02) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Sep 05.
 (Change Discharge to Honorable)

Issue 1: I have been denied contracting & several federal jobs because of
 my type of discharge. Also, I'm supporting myself and I need access to better
 jobs.

ATCH

1. DD Form 214.
2. Memorandum For 413 ABS/CC, 16 Sep 04.

12DEC05/ia



DEPARTMENT OF THE AIR FORCE
38TH COMBAT SUPPORT WING (USAFE)

30 November 2004

MEMORANDUM FOR 38 CSW/CC

FROM: 423 ABS/JA

SUBJECT: Legal Review – Involuntary Discharge (), A1C: ()

1. **FACTS AND CIRCUMSTANCES:** On 24 November 2004, 423 ABS/CC recommended that A1C: () be involuntarily discharged from the United States Air Force pursuant to AFPD 36-32 and AFI 36-3208, paragraphs 5.50.2 (Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline) and 5.11.9 (Condition that Interferes with Military Service, Mental Disorder). 423 ABS/CC recommended that A1C: () be given an under honorable conditions (general) discharge without probation and rehabilitation.

2. **EVIDENCE:**

a. Evidence for the Government: For a detailed listing of the misconduct supporting this discharge under AFI 36-3208, paragraph 5.50.2, please see 423 ABS/CC's Notification Memorandum, dated 17 November 2004, paragraphs 2(a)-(k). For a detailed description of the condition supporting this discharge under AFI 36-3208, paragraph 5.11.9, please see the same Notification Memorandum, paragraph 2(l).

b. Evidence for the Respondent: A1C: () was afforded the opportunity to submit matters in his own behalf; however, after consulting with his military counsel, A1C: () elected not to present any documents for your consideration.

3. **DISCUSSION:** As the separation authority in this matter, you should make four determinations: (1) whether a basis for discharge exists; (2) whether an involuntary discharge is appropriate in this case; (3) if discharge is appropriate, how the discharge should be characterized; and (4) whether probation and rehabilitation is appropriate.

a. Bases for Discharge: A1C: () misconduct and his diagnosed mental disorder make him subject to discharge under two provisions of AFI 36-3208. First, paragraph 5.50 states that Airmen are subject to discharge for a pattern of misconduct in the current enlistment consisting wholly or in part of misconduct more serious than that considered under paragraph 5.49 (i.e., failure to comply with nonpunitive regulations or minor offenses under the UCMJ). Furthermore, paragraph 5.50.2 states that this pattern of misconduct includes actions that tend to disrupt order, discipline, or morale within the military community and usually involves causing dissent, disruption, and degradation of mission effectiveness. A1C: () lengthy history of documented misconduct falls

squarely under this basis for discharge. Second, paragraph 5.11 states that Airmen may be discharged based upon a mental condition (in this instance a mental disorder under paragraph 5.11.9) when it is confirmed by a psychiatrist or psychologist that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired. However, the existence of this condition does not bar separation for any other reason authorized in AFI 36-3208 (e.g., misconduct). Also, paragraph 5.11 states that discharge under this provision is not appropriate if the Airman's record would support discharge for another reason, such as misconduct or unsatisfactory performance. Accordingly, while A1C: [redacted] diagnosed mental disorder is a valid basis for discharge, the primary reason for discharge should be listed as misconduct if you use both reasons for discharge.

b. Appropriateness of Discharge: AFI 36-3208, paragraph 6.1.1, lists the factors that you should consider in making this determination. Among these factors are the seriousness of the circumstances that make A1C: [redacted] subject to discharge, whether those circumstances are likely to continue or recur, and whether he has the ability to perform his duties effectively now and in the future. Throughout his Air Force tenure, A1C: [redacted] has consistently demonstrated a blatant disregard for good order and discipline. His repeated pattern of misconduct at both Tinker AFB and RAF Alconbury has led to numerous counselings, reprimands, and ultimately to nonjudicial punishment and a reduction in rank. Nonetheless, A1C: [redacted] continued to misbehave, resulting in the vacation of his suspended nonjudicial punishment. Given his documented track record, it is unlikely A1C: [redacted] will change his derelict ways. Therefore, discharge is appropriate.

c. Characterization of Discharge: AFI 36-3208, paragraph 1.17.3, requires that you consider the Airman's age, length of service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance for Airmen in determining the proper characterization. Paragraph 1.18.2 states that when an Airman's service has been faithful on the whole, yet significant negative aspects of the Airman's conduct or performance of duty outweigh the positive aspects of his record, an under honorable conditions (general) discharge is appropriate. A1C: [redacted] pattern of misconduct clearly outweighs the positive aspects of his military record, albeit not enough to characterize his service as being under other than honorable conditions (UOTHC – the worst administrative characterization possible), so a general discharge is proper in this instance. It is worth noting that should you approve the discharge based only on A1C: [redacted] mental condition (paragraph 5.11.9), you would be obligated to give him an honorable discharge characterization. However, by using A1C: [redacted] pattern of misconduct (paragraph 5.50.2) as the basis (or at least as one of the bases), you are authorized to impart the more suitable general characterization.

d. Probation and Rehabilitation: This concept involves the conditional suspension of an administrative discharge in deserving cases where a member is given the chance to show he or she may still meet Air Force standards. Under AFI 36-3208, paragraph 7.3, an Airman must have the potential to serve satisfactorily and the capacity to be rehabilitated before an offer of probation and rehabilitation is appropriate. Additionally, it is

appropriate to do so only when retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. A1C [redacted] has already failed to respond to the unit's numerous rehabilitative attempts, and it is unlikely any further endeavors will be successful. Retaining A1C [redacted] in the Air Force will only serve to degrade mission effectiveness and unit morale, thus an offer of probation and rehabilitation is unwarranted in this case.

4. **OPTIONS:** As the separation authority, you must direct or recommend one of the following courses of action: (1) direct that A1C [redacted] be discharged, specifying the basis or bases for discharge, while determining whether an under honorable conditions (general) discharge or honorable discharge is appropriate, with or without a suspension for probation and rehabilitation; (2) direct that A1C [redacted] be retained; (3) if you deem the only appropriate basis to be a pattern of misconduct (AFI 36-3208, paragraph 5.50.2) and you still desire that A1C [redacted] receive an honorable discharge, you must recommend to 3 AF/CC that A1C [redacted] be awarded such a discharge characterization; or (4) direct that a board be convened to determine whether A1C [redacted] should be discharged with an under other than honorable conditions (UOTHC) discharge.

NOTE: If you determine that the sole basis for discharge in this case should be for a mental disorder (AFI 36-3208, paragraph 5.11.9), further processing must cease until a new Enlisted Performance Report is completed in accordance with AFI 36-3208, paragraph 6.4.1.

5. **RECOMMENDATION:** The evidence in this discharge file is factually and legally sufficient to support 423 ABS/CC's recommendations. We recommend you sign the attached memorandum directing that A1C [redacted] be involuntarily discharged from the United States Air Force pursuant to AFI 36-3208, paragraphs 5.50.2 and 5.11.9 (specifying the primary reason for discharge being paragraph 5.50.2, Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline), with an under honorable conditions (general) discharge. We further recommend that you do not offer probation and rehabilitation in this case.

6. If you have any questions about this discharge file, please contact me at DSN 268-3535.

[Redacted Signature]

Deputy Staff Judge Advocate
423d Air Base Squadron

I concur.

[Redacted Signature]

Staff Judge Advocate
423d Air Base Squadron

I concur. *Recommend 38CSw/CC sign attached memo. 1 DEC 04*



Staff Judge Advocate
38th Combat Support Wing

Attachments:

1. Proposed Memorandum Directing Discharge
2. AFI 36-3208 Discharge Package

cc:
420 ABG/CC



DEPARTMENT OF THE AIR FORCE
38TH COMBAT SUPPORT WING (USAFE)

NOV 17 2004

MEMORANDUM FOR AIC [REDACTED], 423 ABS/SFE

FROM: 423 ABS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline, and for a Mental Health Condition that Interferes with Military Service. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraphs 5.50.2 and 5.11.9. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

Under paragraph 5.50.2:

- a. You did, on or about 12 February 2001, disobey a lawful order given by a noncommissioned officer. For this instance of misconduct, you received a Letter of Reprimand, dated 19 March 2001 (Attachment 3), and an Unfavorable Information File, dated 22 March 2001 (Attachment 4) was established.
- b. You were, on or about 16 August 2001, derelict in the performance of your duties in that you failed to wear web gear while posted on a gate waiving traffic onto base. This instance of misconduct is documented in a Memorandum for Record, undated (Attachment 5).
- c. You did, on or about 28 August 2001, disrespect a superior commissioned officer. For this instance of misconduct, you received a Letter of Reprimand, undated (Attachment 6).
- d. You did, on or about 3 September 2001, fail to obey a lawful regulation in that you were found waiving traffic onto the base while talking on a personal cell phone and you also were found to have a personal television in your possession while on post. For these instances of misconduct, you received a Letter of Reprimand, undated (Attachment 7).
- e. You were, between on or about 8 August 2002 and on or about 14 August 2002, derelict in the performance of your duties in that you failed to take adequate steps to finish your end-of-course exams for your CDCs in a timely manner. Also, on or about 15 August 2002, you again were derelict in the performance of your duties in that you were unable to give a proper post briefing to your flight chief. For these instances of misconduct, you received a Letter of Reprimand, dated 15 August 2002 (Attachment 8).

f. You did, on or about 10 September 2002, disobey a lawful order given by a noncommissioned officer. For this instance of misconduct, you received a Letter of Reprimand, dated 10 September 2002 (Attachment 9).

g. You did, on or about 11 February 2004, without authority, fail to go at the time prescribed to your appointed place of duty, specifically a Nuclear Biological Chemical Warfare training class. For this instance of misconduct, you received a Letter of Counseling, dated 15 February 2004 (Attachment 10).

h. You did, on or about 1 March 2004, without authority, fail to go at the time prescribed to your appointed place of duty, specifically a squadron commander's call. For this instance of misconduct, you received a Letter of Reprimand, dated 6 March 2004 (Attachment 11).

i. You were, on or about 30 June 2004, derelict in the performance of your duties in that you failed to meet the minimum requirements of multiple reevaluation quality control practical exercises. For this instance of misconduct, you received a Letter of Reprimand, dated 5 July 2004 (Attachment 12). You were also placed on a Control Roster, dated 21 July 2004 (Attachment 13).

j. You did, on or about 11 May 2004, without authority, fail to go at the time prescribed to your appointed place of duty, specifically the Specialty Knowledge Test of you WAPS test. Also, you did, on or about 16 July 2004, without authority again fail to go at the time prescribed to your appointed place of duty, specifically your annual Security Forces weapons training. For these instances of misconduct, you received nonjudicial punishment, dated 20 August 2004 (Attachment 14), for which you were reduced in rank from SrA to A1C.

k. You did, on or about 4 October 2004, without authority, fail to go at the time prescribed to your appointed place of duty, specifically to the base fitness center for mandatory physical fitness training. For this instance of misconduct, you suspended nonjudicial punishment was vacated, dated 21 October 2004 (Attachment 15).

Under paragraph 5.11.9:

l. You were diagnosed by Major: [REDACTED] a licensed clinical psychologist, as having a mental disorder so severe that your ability to function effectively in the military environment is significantly impaired. This is documented in a memorandum, dated 16 September 2004 (Attachment 16).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult counsel. Military legal counsel will be obtained to assist you. You may make arrangements to consult an Area Defense Counsel from RAF Lakenheath by calling them at 226-3608. You may also consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 0930 on 22 Nov 2004 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. If you fail to consult counsel or to submit statements in your own behalf, 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 RAF Upwood Clinic at 1100 on 17 Nov 2004 for the examination.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the 413 ABS Orderly Room.


Commander

Attachments:

1. Receipt of Notification Memorandum
2. Statement of Understanding
3. Letter of Reprimand, dated 19 March 2001
4. AF Form 1058 (UIF), dated 22 March 2001
5. Memorandum for Record, undated
6. Letter of Reprimand, undated
7. Letter of Reprimand, undated
8. Letter of Reprimand, dated 15 August 2002
9. Letter of Reprimand, dated 10 September 2002
10. Letter of Counseling, dated 15 February 2004
11. Letter of Reprimand, dated 6 March 2004
12. Letter of Reprimand, dated 5 July 2004
13. AF Form 1058 (Control Roster), dated 21 July 2004
14. AF Form 3070 (NJP), dated 20 August 2004
15. AF Form 366 (Vacation of NJP), dated 21 October 2004
16. Mental Health Evaluation, dated 16 September 2004
17. Withdrawal of Authority to Bear and Use Firearms, dated 16 July 2004