

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) _____	GRADE AB	AFSN/SSAN _____
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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	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A95.00/A0.01	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 HE

HEARING DATE 13 Sep 2006	CASE NUMBER FD-2006-00020	
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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.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT		DATE: 9/13/2006
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-2006-00020

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: The applicant stated that he would like be able to utilize the Montgomery GI Bill as his justification for requesting an upgrade of his discharge. The records indicated the applicant received two Article 15s, seven Letters of Reprimand, one Letter of Counseling, one Record of Individual Counseling, and one Memorandum for Record for misconduct. The misconduct included making false official statements, absent without leave, late for work, failure to follow orders, returning from leave late, failure to pay just debts, failure to go, dereliction of duty, stealing food from refrigerator, and failure to obey a lawful order. 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 USAF Eglin AFB, FL on 23 Feb 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 11 Jan 82. Enlmt Age: 18 0/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-40, E-47, G-50, M-44. PAFSC: 3E731 - Fire Protection Apprentice. DAS: 25 Jun 01.

b. Prior Sv: (1) AFRes 31 Jan 00 - 31 Oct 00 (9 months 1 day) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 01 Nov 00 for 4 yrs. Extended 4 Sep 03 for 11 months. Svd: 03 Yrs 03 Mo 23 Das, all AMS.

b. Grade Status: AB - 20 Jan 04 (Article 15, 21 Jan 04)
Amn - 10 Oct 03 (Article 15, 10 Oct 03)
A1C - 01 Mar 02
Amn - 01 May 01

c. Time Lost: None.

d. Art 15's: (1) 21 Jan 04, Eglin AFB, FL - Article 107. You, did, on or about 19 Dec 03, with intent to deceive, make to MSgt [redacted] an official statement, to wit: you returned your chemical warfare equipment to building 1392, which statement was totally false, and was then known by you to be so false. Reduction to AB. (No appeal) (No mitigation)

(2) 10 Oct 03, Eglin AFB, FL - Article 86. You did, on or about 10 Sep 03, without authority, absent yourself from your place of duty at which you were required to be, to wit: 96th Civil Engineering Squadron Fire Department, Eglin AFB, Florida, and did remain so absent until on or about 19 Sep 03. Reduction to Amn. Suspended forfeiture of \$645.00 pay. Reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 29 NOV 03 - Late for work.
LOR, 21 NOV 03 - Failure to follow an order from an SNCO.
LOR, 20 NOV 03 - Returning from leave late.
LOR, 23 OCT 03 - Failure to pay just debts.

LOR, 06 AUG 03 - Failure to go.
LOR, 02 FEB 03 - Late for work.
LOR, 29 JAN 03 - Dereliction of duty.
LOC, 28 JAN 02 - Stealing food from refrigerator.
RIC, 11 DEC 01 - Failure to go.
LOA, 30 OCT 01 - Failure to obey a lawful order and making
a false official statement.

f. CM: None.

g. Record of SV: 01 Nov 00 - 01 Jul 02 Eglin AFB 3 (Initial)
02 Jul 02 - 30 May 03 Eglin AFB 3 (CRO)

h. Awards & Decs: AFTR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (04) Yrs (00) Mos (24) Das
TAMS: (03) Yrs (03) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 04 Jan 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Forms 214 (Member 1&4).
3. Two Character References.

28FEB06/ia



DA Military Review Boards Agency
ATTN: SFBA (Reading Room)
Room 1E520
The Pentagon
Washington DC, 20310

To Whom It May Concern:

I greatly appreciate you taking the time out of your busy schedule to review my letter and consider upgrading my discharge status. First of all, I would like to sincerely apologize for my behavior during my service in the Air Force. My behavior and attitude was that of an immature adult, and without fully understanding how my action would affect the Air Force as a whole. For my immaturity and action, I am truly sorry. My actions and attitude was not of an Air Force member. They did not exemplify the core values that I promised to uphold such as: Service before self, Integrity first, Excellence in all we do. While I was in the Air Force I gained valuable skills in leadership, hard work, and discipline. Yet, without those skills I would not be the disciplined and focused young man I am today. I am also most appreciative to the Air Force for the great bonds I made with people and the structure that it instilled in my life. Before my service in the military the only two organizations I belonged to were band and track. However, I never felt like I belonged, until I found a home in the Air Force. The Air Force as a whole and as an organization played an intricate part of shaping the man I am today, with values, discipline, and morale. The benefits I lost during my discharge have set me back from a second chance. My benefits will help me in my future, with furthering my education as well as bettering

myself through maturity. My education is the most important aspect of my life, and that is why I am pleading to you in this letter. I pray and I know the reinstatement of my benefits will enable me to pursue and education, where I will be able to help others like me in the future. This will also allow me to become a great asset to my family, community, and country, which is a desire I have always held. I would like to thank you for considering upgrading my discharge status and may God Bless You.

Sincerely,





DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR ARMAMENT CENTER (AFMC)
EGLIN AIR FORCE BASE, FLORIDA

MEMORANDUM FOR 96 ABW/CC

17 FEB 2004

FROM: AAC/JA

SUBJECT: Legal Review, AFI 36-3208 Administrative Discharge, AB [REDACTED]
[REDACTED], 96 CES (AFMC)

1. **LEGAL SUFFICIENCY:** I reviewed the attached discharge package concerning AB [REDACTED] and find it legally sufficient to support an administrative discharge action for minor disciplinary infractions under AFI 36-3208, paragraph 5.49.
2. **INITIATION OF ACTION:** On 5 February 2004, Lt Col [REDACTED] 96 CES/CC, notified the respondent he was recommending the respondent be administratively discharged for minor disciplinary infractions according to AFI 36-3208, paragraph 5.49. Lt Col [REDACTED] recommends the respondent receive a general discharge without probation and rehabilitation (P&R). The respondent is not entitled to an administrative discharge board.
3. **EVIDENCE CONSIDERED FOR THE GOVERNMENT:** AB [REDACTED] history of misconduct includes numerous instances of failure to go to his place of duty, failure to pay just debts, disobeying a lawful order and making a false official statement, noted in the notification memorandum (Tab 1). For the above misconduct, the respondent received two nonjudicial punishments, seven letters of reprimand, a letter of counseling and a letter of admonishment and a record of individual counseling. Copies of the supporting documents are attached to the notification memorandum (Tab 1).
4. **EVIDENCE CONSIDERED FOR THE RESPONDENT:** The respondent is a 22 year-old fire protection apprentice who enlisted in the Air Force on 1 November 2000. He was assigned to his current unit on 25 June 2001. The respondent, after being advised of his rights to counsel and to submit statements, consulted counsel and submitted statements for your review (Tab 3).
5. **DISCUSSION:**
 - a. *Separation Criteria:* This file is legally sufficient to support discharge pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.49. Pursuant to this paragraph, an airman may be administratively discharged if he has engaged in misconduct consisting solely of minor disciplinary infractions. Minor disciplinary infractions would include failure to comply with nonpunitive regulations or minor offenses under the UCMJ and usually results in letters of counseling, letters of reprimand, or nonjudicial punishments. In this case, the respondent engaged in several instances of minor misconduct under the UCMJ as stated in paragraph 3 above, which merited the use of all of the above rehabilitative tools to no avail.

b. *Character of Discharge*: Discharge under paragraph 5.49 can be described as under other than honorable conditions (UOTHC), general, or honorable. A UOTHC discharge is appropriate when there has been a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. A general discharge is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's performance of duty outweigh positive aspects of the airman's military record. An honorable discharge would be appropriate when the member's service has been so meritorious that any other characterization would be clearly inappropriate. Based on the respondent's repeated acts of misconduct as listed in paragraph 3, an honorable discharge is not appropriate. Therefore, I recommend the respondent be separated with a general discharge.

c. *Probation & Rehabilitation (P&R)*: Respondent is eligible for P&R under AFI 36-3208, chapter 7. P&R is limited to deserving cases, including those where the airman has demonstrated a potential to serve satisfactorily, has the capacity to be rehabilitated for continued military service or for completion of the current enlistment, or whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. Past rehabilitative efforts, as set forth in paragraph 3, have been unsuccessful. Consequently, P&R is not recommended in this case.

6. **OPTIONS**: As the Special Court-Martial Convening Authority in this case, you have the following options:

- a. Disapprove the discharge action and retain the respondent;
- b. Approve the discharge action and separate the respondent with a general discharge, with or without P&R;
- c. Return the file to the unit with a recommendation to reinitiate the case with a recommendation for a UOTHC discharge; or
- d. Forward the discharge package to the General Court-Martial Convening Authority, along with your recommendation that the respondent receive an honorable discharge, with or without P&R.

7. **RECOMMENDATION**: For the reasons set forth above, I recommend the respondent be discharged from the United States Air Force under AFPD 36-32 and AFI 36-3208, paragraph 5.49, with a general discharge, without P&R.

[Redacted Signature Area]

Chief, Adverse Actions

I have reviewed the attached discharge package and the foregoing recommendation. I concur in the recommendation.

[Redacted Signature Box]

Staff Judge Advocate

Attachment:

Case File: [Redacted]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 96TH AIR BASE WING (AFMC)
EGLIN AIR FORCE BASE FLORIDA

5 Feb 04

MEMORANDUM FOR AB [REDACTED], 96 CES (AFMC)

FROM: 96 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general conditions.

2. My reasons for this action are:

a. You did, at Eglin Air Force Base, Florida, on or about 19 December 2003, with the intent to deceive, make to Master Sergeant [REDACTED], an official statement, to wit: you returned your chemical warfare equipment to building 1392, which statement was totally false, and was then known by you to be so false. For this offense you received nonjudicial punishment dated 21 January 2004.

b. On 29 November 2003, you failed in your commitment as an Air Force member and reported to duty 10 minutes late. For this offense, you received a letter of reprimand dated 29 November 2003.

c. On 21 November 2003, you failed to follow the order of a senior noncommissioned officer. For this offense, you received a letter of reprimand dated 21 November 2003.

d. On 20 November 2003 you did not return from leave at said time. For this offense, you received a letter of reprimand dated 20 November 2003.

e. On 23 October 2003 you failed to pay just debts. For this offense, you received a letter of reprimand dated 23 October 2003.

f. You did, at Eglin Air Force Base, Florida, on or about 10 September 2003, without authority, absent yourself from your place of duty at which you were required to be, to wit: 96th Civil Engineer Squadron Fire Department, and did remain so absent until on or about 19 September 2003. For this offense, you received nonjudicial punishment dated 10 October 2003.

g. On 6 August 2003 you failed to show up for a mandatory appointment for M-16 training at Hulburt Field firing range at 0730. For this offense, you received a letter of reprimand dated 6 August 2003.

h. On 2 February 2003 you failed to show up to work on time. For this offense, you received a letter of reprimand dated 2 February 2003.

i. On 22 January 2003 you failed to have all proper documentation to begin Knowledge of Pumper Operations practicum. For this offense, you received a letter of reprimand dated 29 January 2003.

j. On 28 January 2002 at approximately 1500, you were caught taking food out of the refrigerator that was not yours. For this offense you received a letter of counseling dated 28 January 2002.

k. On 11 December 2001 failed to report to Vehicle Licensing training. For this offense you received a record of individual counseling dated 11 December 2001.

l. On 29 October 2001 you disobeyed a lawful order and made a false official statement. For this offense you received a letter of admonishment dated 30 October 2001.

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. Special pay, bonuses, or education assistance funds may be subject to recoupment.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult Capt:.....; at Building 451, on 5 February 2004 at 1445 hours. You may 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 within 3 workdays from today 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 will complete a medical examination with the 96th Medical Group, Force Health Management section, located at the main hospital on the 2nd floor, on 6 February 2004 at 0715 hours.

8. You have been scheduled for an appointment with the 96th Mission Support Squadron, separations section, on 6 February 2004 at 1400 hours.

9. Immediately after completion of your separation briefing, report to the 96th Traffic Management Office to schedule you household goods pickup. If you have a TMO pickup, it must be before picked up before **18 February 2004**.

10. If you live in base housing, you need to report to the base housing office immediately after you complete you TMO processing, to set up your pre/post inspections.

11. You are required to receive a briefing from the Family Support Center prior to your Separation. You have been scheduled to receive your Transition Assistance Management Program (TAMP) briefing on **10 February 2004** at **0800** hours.

12. 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 in your unit orderly room.

13. If you fail to consult counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.


Commander

Attachments:

1. Supporting Documents
2. Airman's Acknowledgment