

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []		GRADE SRA	AFSN/SSAN []							
TYPE GEN	X	PERSONAL APPEARANCE			RECORD REVIEW					
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		
ISSUES A93.33 A94.05 A93.09		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 14 Jun 2007		CASE NUMBER FD-2006-00061								

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. via video teleconference between Andrews AFB, Maryland and Robins AFB, Georgia.

Advise applicant of the decision of the Board 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.

X = Upgrade, Reason and Authority

INDORSEMENT

DATE: 6/20/2007

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

FD-2006-00061

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB via video teleconference from Robins AFB, GA, on 14 Jun 2007. The following witness also testified on the applicant's behalf: Mrs. A. T., spouse.

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

FINDINGS: Upgrade of discharge and change of reason and authority for discharge are 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.

ISSUES:

Issue 1: The applicant contends that he was singled out by his Utilities Superintendent, who took over the section after his commander deployed. The applicant states that he was singled out because he was out of the office numerous times (leaving early or taking time off during duty hours) to drive his wife, who could not drive and spoke very little English, to work and medical appointments. The records indicated the applicant received seven Letters of Reprimand, two Letters of Counseling, and two Records of Individual Counseling for misconduct. The misconduct included failure to perform assigned duties, poor performance, lying, lack of military bearing, late for work, dereliction of duty, reporting to work without a line badge, failure to comply with standards, ignoring directions of supervisors and unsatisfactory performance. After review of the record and testimony provided by the applicant, the Board found no evidence to substantiate an inequity or impropriety. The Board concluded that the characterization and reason for discharge received by the applicant were appropriate.

Issue 2: The applicant contends that his Utilities Superintendent had a personal grudge against him and arranged for his General discharge and blocked his transfer to the Army. After review of the record and testimony of the applicant, the Board found no evidence of an inequity or impropriety in the case on which to base and upgrade or change the reason for discharge.

Issue 3: The applicant contends that he was advised that he would be allowed to keep his enlistment bonus, which became a collection debt after his discharge. In addition, the applicant contends that because of his discharge, he lost medical benefits for his wife who was 8 months pregnant with their child. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 SRA) (HGH SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF Whiteman AFB, MO on 16 Nov 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. BACKGROUND:

a. DOB: 1 Sep 81. Enlmt Age: 19 11/12. Disch Age: 23 2/12. Educ: HS DIPL. AFQT: N/A. A-55, E-62, G-41, M-59. PAFSC: 3E451 - Utilities Journeyman. DAS: 27 Jul 02.

b. Prior Sv: (1) AFRes 8 Aug 01 - 27 Aug 01 (20 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 28 Aug 01 for 6 yrs. Svd: 03 Yrs 02 Mo 19 Das, all AMS.

b. Grade Status: SrA - 19 Feb 04
A1C - 19 Oct 01

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 18 OCT 04 - Unsatisfactory performance.
LOR, 31 AUG 04 - Failure to comply with standards and blatantly ignoring directions of supervisors.
LOR, 31 AUG 04 - Late for duty.
LOR, 26 AUG 04 - Reporting to duty without a line badge.
LOR, 12 AUG 04 - Dereliction of duty.
LOR, 05 AUG 04 - Dereliction of duty.
LOR, 13 APR 04 - Late for work.
LOC, 12 JAN 04 - Dereliction of duty.
LOC, 12 JAN 04 - Poor performance, lying, and lack of military bearing.
RIC, 12 JUN 03 - Failure to perform assigned duties.
RIC, 04 FEB 03 - Failure to perform assigned duties.

f. CM: None.

g. Record of SV: 28 Aug 01 - 15 Apr 03 Whiteman AFB 4 (HAF Dir)
16 Apr 03 - 15 Apr 04 Whiteman AFB 2 (Annual) **REF**

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (03) Mos (09) Das
TAMS: (03) Yrs (02) Mos (19) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 03 Feb 06.

(Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

Issue 1: I had served honorably and well, but was approached by MSgt. [redacted] who wrote statements on me which were petty. He was determined that I would be taken out of the Air Force. He told me he would separate me with an Honorable discharge and keep my bonus. He arranged a General discharge and blocked my transfer to the Army.

ATCH

1. Affidavit of Joshua Taylor.
2. Letter of Support.
3. DD Form 214.
4. Defense Finance and Accounting Service Letter, 19 Aug 05.
5. Account Statement.

23MAR06/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 509TH BOMB WING (ACC)
WHITEMAN AIR FORCE BASE, MISSOURI

MEMORANDUM FOR 509 BW/CC

10 Nov 04

FROM: 509 BW/JA

SUBJECT: Recommendation for Discharge – SrA: [REDACTED]

1. On 28 Oct 04, the 509 CES/CC, Major: [REDACTED] initiated discharge action against Respondent, SrA: [REDACTED]; based on minor disciplinary infractions. I have reviewed the above-referenced action in accordance with AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, paragraph 5.49, and find it legally sufficient.

2. **Facts:** The record contains sufficient evidence to substantiate discharge under paragraph 5.49. Specific instances of Respondent's misconduct include the following:

a. During the month of September, Respondent was in charge of pouring concrete valve boxes for the water lines. The quality of work he did was sub-standard. For this incident, he received a Letter of Reprimand (LOR), dated 18 Oct 04.

b. On or about 18 Feb 04, Respondent disregarded instructions to pick up his AF Form 522 before his scheduled M-16 training. For this incident he received an LOR, dated 31 Aug 04.

c. On 12 Feb 04, Respondent failed to report to his appointed place of duty at the time prescribed. For this incident, he received an LOR, dated 31 Aug 04.

d. On 4 Feb 04, Respondent came to work without his line badge. For this incident, he received an LOR, dated 26 Aug 04.

e. On 10 Aug 04, Respondent was derelict in the performance of his duties. For this incident, he received an LOR, dated 12 Aug 04.

f. On 28 Jul 04, it was brought to the attention of the Utilities Superintendent that Respondent consistently demonstrated a failure to maintain the standards expected of an airman in the performance of his duties; including making false statements and showing up late for duty. For this incident, he received an LOR, dated 5 Aug 04.

g. On 13 Apr 04, Respondent failed to report to his appointed place of duty at the time prescribed. For this incident, he received an LOR, dated 13 Apr 04.

h. On 7 Jan 04, it was discovered that Respondent was not answering the stand-by phone while on stand-by, as it was his duty to do, that he made a false official statement, and that he was driving to stand-by calls in a GOV with his spouse. For these incidents, he received a Letter of Counseling (LOC), dated 12 Jan 04.

For Official Use Only

i. Between 17 Nov 03 and 12 Jan 04, Respondent demonstrated a poor work ethic, showing lack of honesty and problems with military standards of appearance. For this incident, he received an LOC, dated 12 Jan 04.

j. On 11 Jun 03, Respondent failed to shut off the chemical feed system at the base pool at the appointed time. For this incident, he received a Record of Individual Counseling (RIC), dated 12 Jun 03.

k. On 4 Feb 03, Respondent failed to perform his duties properly. For this incident, he received an RIC, dated 4 Feb 03.

3. **Unit Recommendation:** The 509 CES/CC recommends that Respondent receive an under honorable conditions (general) discharge without probation and rehabilitation (P&R).

4. **Member's response:** Respondent consulted counsel and waived his right to submit statements on his behalf.

5. **Legal Analysis:**

a. **Basis:** AFI 36-3208, Chapter 5, Section H, paragraph 5.49, authorizes separation based on a pattern of misconduct consisting solely of infractions that may involve failure to comply with non-punitive regulations or minor offenses under the UCMJ. Infractions of this type result, as a rule, in informal or formal counselings, letters of reprimand, or Article 15 nonjudicial punishments. As described in paragraph 2, Respondent has received two RICs for failure to perform assigned duties properly; two LOCs for demonstrating a poor work ethic, showing lack of honesty and problems with military standards of appearance, and failure to perform assigned duties properly; and seven LORs failure to perform assigned duties properly, disregarding instructions, failure to report for duty at the time prescribed, coming to work without his line badge, and making false statements. This conduct constitutes a series of minor disciplinary infractions and is inconsistent with the maintenance of good order and discipline. Consequently, there is a legally sufficient basis for discharge under this section.

b. **Service Characterization:** AFI 36-3208, paragraph 1.18.2, states that an under honorable conditions (general) discharge is appropriate when an airman's service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. In this case, Respondent's repeated misconduct constitutes conduct prejudicial to good order and discipline. Although repeated efforts have been made to correct his misconduct, those efforts have proved ineffective, and the improper behavior has persisted. Such negative aspects of Respondent's conduct outweigh positive aspects of his military record. Therefore, an under honorable conditions (general) discharge is warranted.

c. **Probation and Rehabilitation:** IAW AFI 36-3208, paragraph 7.2.7, the separation authority may offer Probation and Rehabilitation (P&R) in any case where there seems to be a reasonable expectation of rehabilitation. In this case, Respondent has been afforded several

opportunities to conform his behavior to acceptable military standards. Respondent was issued two RICs, two LOCs, and seven LORs. These repeated corrective measures and Respondent's failure to comply with these measures demonstrates an inability or unwillingness to conform his behavior to Air Force standards. For these reasons, I concur with the 509 CES/CC's recommendation that Respondent not receive P&R pursuant to the provisions of AFI 36-3208, Chapter 7.



6. **Options:** As the special court-martial convening authority you may:

- a. Retain Respondent in the Air Force;
- b. Direct that Respondent be separated with an under honorable conditions (general) discharge, with or without an offer of probation and rehabilitation;
- c. Recommend Respondent be separated with an honorable discharge, with or without probation and rehabilitation, and forward this case to the general court-martial convening authority (8 AF/CC) for action; or
- d. Direct this case be reinitiated pursuant to the board hearing procedures of AFI 36-3208, Chapter 6, Section C, if you feel a discharge under other than honorable conditions (UOTHC) is warranted.

7. **Recommendation:** I recommend you discharge Respondent, characterizing his service as under honorable conditions (general), without an offer of probation and rehabilitation. If you agree, please sign the attached correspondence and return this file to JA for further processing, or please advise us if you prefer an alternate disposition.


Chief, Adverse Actions

I concur.



Staff Judge Advocate

Attachment:
Discharge Package/SrA 



DEPARTMENT OF THE AIR FORCE
509TH CIVIL ENGINEERING SQUADRON (ACC)
WHITEMAN AIR FORCE BASE, MISSOURI

28 OCT 04

MEMORANDUM FOR SRA

FROM: 509 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authorities for this action are AFD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved your service may be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. During the month of September, you were in charge of pouring concrete valve boxes for the water lines. The quality of work you did was sub-standard. For this incident, you received a Letter of Reprimand (LOR), dated 18 Oct 04.

b. On or about 18 Feb 04, you disregarded instructions to pick up your AF Form 522 before your scheduled M-16 training. For this incident you received an LOR, dated 31 Aug 04.

c. On 12 Feb 04, you failed to report to your appointed place of duty at the time prescribed. For this incident, you received an LOR, dated 31 Aug 04.

d. On 4 Feb 04, you came to work without your line badge. For this incident, you received an LOR, dated 26 Aug 04.

e. On 10 Aug 04, you were derelict in the performance of your duties. For this incident, you received an LOR, dated 12 Aug 04.

f. On 28 Jul 04, it was brought to the attention of the Utilities Superintendent that you consistently demonstrated a failure to maintain the standards expected of an airman in the performance of your duties; including making false statements and showing up late for duty. For this incident, you received an LOR, dated 5 Aug 04.

g. On 13 Apr 04, you failed to report to your appointed place of duty at the time prescribed. For this incident, you received an LOR, dated 13 Apr 04.

h. On 7 Jan 04, it was discovered that you were not answering the stand-by phone while on stand-by, as it was your duty to do, that you made a false official statement, and that you were driving to stand-by calls in a GOV with your spouse. For these incidents, you received a Letter of Counseling (LOC), dated 12 Jan 04.

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i. Between 17 Nov 03 and 12 Jan 04, you demonstrated a poor work ethic, showing lack of honesty and problems with military standards of appearance. For this incident, you received an LOC, dated 12 Jan 04.

j. On 11 Jun 03, you failed to shut off the chemical feed system at the base pool at the appointed time. For this incident, you received a Record of Individual Counseling (RIC), dated 12 Jun 03.

k. On 4 Feb 03, you failed to perform your duties properly. For this incident, you received an RIC, dated 4 Feb 03.

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 convening authority 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 has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel in Bldg 509 on 29 OCT 05 at 11:30. 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 1630, 2 NOV 04 unless you request and receive an extension for good cause shown. I will forward your statements 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 rights to do so.

7. You have been scheduled for a medical examination. You must report to Family Practice at 1300 L on 29 OCT 04 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 in your unit's Commander Support Staff.

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

[Redacted Signature Box]

Commander

Attachments:

1. Supporting documents --for the reason for discharge:

- a. LOR, dated 18 Oct 04
- b. LOR, dated 31 Aug 04
- c. LOR, dated 31 Aug 04
- d. LOR, dated 26 Aug 04
- e. LOR, dated 12 Aug 04
- f. LOR, dated 5 Aug 04
- g. LOR, dated 13 Apr 04
- h. LOC, dated 12 Jan 04
- i. LOC, dated 12 Jan 04
- j. RIC, dated 12 Jun 03
- k. RIC, dated 4 Feb 03

2. Documents containing derogatory information -- which are not listed in the notification memorandum: None

3. Airman's receipt of notification memorandum, dated 28 OCT 04