

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; width: 150px; height: 20px; margin-top: 5px;"></div>		GRADE A1C	AFSN/SSAN <div style="border: 1px dashed black; width: 100px; height: 20px; margin-top: 5px;"></div>
TYPE GEN	X	PERSONAL APPEARANCE	
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 A92.21 A01.00	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-2006-00462		
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE			
<p>Case heard in Washington, D.C. via video teleconference with Andrews AFB Maryland and Robins AFB Georgia.</p> <p>Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p> <p>* Reason and Authority + Reenlistment Code</p> <div style="border: 1px dashed black; width: 700px; height: 40px; margin-top: 20px;"></div>			
INDORSEMENT		DATE: 6/25/2007	
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, 3RD FLOOR ANDREWS AFB, MD 20762-7002	

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE	CASE NUMBER FD-2006-00462
<p>GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.</p> <p>The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, via video teleconference between Andrews AFB Maryland and Robins AFB, Georgia on June 14, 2007. The following witness also testified on the applicant's behalf: Mrs C.V. (wife).</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are denied.</p> <p>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.</p> <p>ISSUE:</p> <p>Issue 1. The applicant submitted no issues of impropriety or inequity and realized his actions while in the military were unacceptable. He admitted that he was young and immature. He has expressed a desire for upgrade of his discharge to qualify for reenlistment into the armed forces. The records indicated the applicant received an Article 15, eight Letters of Reprimand, a Letter of Admonishment, six Records of Individual Counseling and three Memorandums for Record for misconduct. He received an Article 15 for failure to shave and driving in excessive speeds. He was punished with a reduction in grade to Airman First Class, suspended forfeiture of pay for two months, and 30 days of extra duty. The applicant had additional misconduct and was administratively disciplined for being late for work on repeated occasions, failure to shave, financial irresponsibility, numerous uniform discrepancies, poor personal hygiene, failed room inspections, missing a mandatory formation, failure to obey a lawful order, lack of motivation and CDC pretest failure, adultery and lying, and off-duty misconduct for having sexual intercourse with a minor. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the applicant's 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.</p> <p>Issue 2. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p>	

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 Hurlburt Field, FL on 4 Mar 05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, to Change the RE Code, and Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 22 Aug 81. Enlmt Age: 19 6/12. Disch Age: 23 6/12. Educ: HS DIPL. AFQT: N/A. A-31, E-40, G-32, M-40. PAFSC: 3E251 - Pavement and Construction Equipment Journeyman. DAS: 14 Dec 01.

b. Prior Sv: (1) AFRes 13 Mar 01 - 02 Apr 01 (20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Apr 01 for 4 yrs. Svd: 03 Yrs 11 Mo 02 Das, all AMS.

b. Grade Status: A1C - 02 Feb 05 (Article 15, 02 Feb 05)
SrA - 04 Apr 04
A1C - 03 Aug 02
Amn - 03 Oct 01

c. Time Lost: None.

d. Art 15's: (1) 02 Feb 05, Hurlburt Field, FL - Article 92. You, did, on or about 13 Jan 05, fail to obey a lawful general regulation, to wit: paragraph 1.4, AFI 36-2903, dated 29 Sep 02, by wrongfully having facial hair, other than a mustache, while in uniform. You, who knew or should have known of your duties, on or about 10 Jan 05, were derelict in the performance of your duties in that you willfully failed to refrain from driving at excessive speeds, as it was your duty to do. Reduction to A1C. Suspended forfeiture of \$820.00 pay per month for 2 months. Thirty days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 07 JAN 05 - Late for work and lying.
LOR, 13 DEC 04 - Failed dorm room inspection.
LOR, 16 JUL 04 - Financial irresponsibility and lying.
LOR, 16 JUL 04 - Numerous discrepancies with uniform, poor personal hygiene, and long hair.
LOR, 15 JUL 04 - Failed room inspection.
LOA, 29 JUN 04 - Lost military ID card.
RIC, 24 JUN 04 - Financial irresponsibility, poor dress and appearance, and carrying a cell phone in

uniform in violation of policy.
 RIC, 03 FEB 04 - Financial irresponsibility.
 LOR, 26 DEC 02 - Adultery and lying.
 LOR, 07 NOV 02 - Failed room inspection.
 RIC, 25 OCT 02 - CDC Pretest failure.
 LOR, 22 OCT 02 - Failure to go.
 RIC, 02 OCT 02 - Lack of motivation and CDC Pretest failure.
 RIC, 24 AUG 02 - Failure to obey a lawful order.
 RIC, 19 APR 02 - Missing a mandatory formation.
 MFR, 04 Feb 05 - Late for work, unshaven, and disrespect for authority.
 MFR, 10 AUG 04 - Late for work, smelling of alcohol, and messy dorm room.
 MFR, 28 MAY 04 - Off-duty conduct and violation of weapons policy.

f. CM: None.

g. Record of SV: 04 Apr 01 - 04 Dec 02 Hurlburt Field 3 (Initial)
 05 Dec 02 - 04 Dec 03 Hurlburt Field 4 (Annual)

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

i. Stmt of Sv: TMS: (03) Yrs (11) Mos (22) Das
 TAMS: (03) Yrs (11) Mos (02) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01 Dec 06.
 (Change Discharge to Honorable, Change the RE Code, and Reason for Discharge)

Issue 1: I would like the Air Force Review Board to change my code, because I'm wanting to return to the Air Force either as active duty as prior or as a reservist.

ATCH

None.

15DEC06/ia



**DEPARTMENT OF THE AIR FORCE
823D RED HORSE SQUADRON (ACC)
HURLBURT FIELD FLORIDA**

MEMORANDUM FOR A1C:

25 Feb 05

FROM: 823 RHS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically, minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, under the provisions of chapter 5, section H, paragraph 5.49. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action under paragraph 5.49 are:

a. You did, at or near Fort Walton Beach, Florida, on or about 28 May 04, contribute to the delinquency of a minor, by providing alcohol to a 16 year old female, for which you pled "no contest" and received a 12 month probation period from the Okaloosa County Court.

b. Between on or about 10 Jan 04 and 13 Jan 04, you were derelict in the performance of your duties in that failed to refrain from driving at excessive speeds and you wrongfully had facial hair other than a mustache, while in uniform, for which you were punished under Article 15, UCMJ, dated 2 Feb 05, which was filed in your Unfavorable Information File (UIF).

c. On 7 Jan 05, you failed to report to work on time, for which you received a Letter of Reprimand (LOR), dated 7 Jan 05, which was filed in your Personal Information File (PIF).

d. On 15 Jul 04, the unit was contacted by a collection agency and informed that you had bounced two checks and failed to honor your financial obligations, for which you received a Letter of Reprimand (LOR), dated 16 Jul 04, which was filed in your UIF.

e. On 13 Jul 04, you failed to comply with AFI 36-2903 with numerous discrepancies in the wear of your uniform and for poor hygiene, for which you received a LOR, dated 16 Jul 04, which was filed in your UIF.

f. On 14 Jul 04, you failed a dorm room inspection, for which you received a LOR, dated 15 Jul 04, which was filed in your UIF.

g. On 25 Jun 04, you lost your military identification card, for which you received a Letter of Admonishment (LOA), dated 29 Jun 04, which was filed in your PIF.

h. On 23 Jun 04, you failed to keep up with your financial obligations and this office received calls from two creditors, for which you received a LOR, dated 24 Jun 04, which was filed in your PIF.

i. On 8 Dec 04, you failed your dorm room inspection, for which you received a LOR dated, 13 Dec 04, which was filed in you PIF.

j. On 3 Feb 04, you were late in keeping up with your financial obligations, for which you received a Record of Individual Counseling (RIC), dated 3 Feb 04, which was filed in your Personnel Information File (PIF)

k. Between on or about Oct 02 through Nov 02, you had an adulterous relationship with a married woman, which you lied about to the unit First Sergeant, for which you received a Letter of Reprimand (LOR), dated 26 Dec 02, which was filed in your PIF.

l. On 6 Nov 02, you failed a scheduled room inspection, for which you received a LOR, dated 7 Nov 04, which was filed in your PIF.

m. You failed a pretest for the A set of your CDC for a third time, for which you received a RIC, dated 25 Oct 02, which was filed in your PIF.

n. On 16 Oct 02, you failed to show up for a mandatory formation, for which you received a LOR, dated 22 Oct 02, which was filed in your PIF.

o. You failed a pretest for the A set of your CDC, for which you received a RIC, dated 10 Oct 02, which was filed in your PIF.

p. On 27 and 28 Aug 02, you failed to get a new hat from Supply as you were directed to do so by a SNCO and a NCO, for which you received a RIC, dated 29 Aug 02, which was filed in your PIF.

q. On 19 Apr 02, you failed to report to commander directed squadron physical training, for which you received a RIC, dated 19 Apr 02, which was filed in your PIF.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Courts-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

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 at Hurlburt Field, FL, Bldg 90042, on 25 Feb 05 at 0840 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three workdays of your receipt of this memorandum, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. You have been scheduled for a medical examination. You must report to Hurlburt Field, 113 Lielmanis Ave Bldg 91020 on 25 Feb 05, at 0950 hours for the examination.

7. You are scheduled for a medical examination and you should report to the Hurlburt Clinic at 0950 hrs on 25 Feb 05 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 unit orderly room.


SQUADRON SECTION COMMANDER

Attachments:

1. AF Form 3070, dtd 2 Feb 05 (3pp.)
2. LOR, dtd 7 Jan 05 (1p.)
3. LOR, dtd 13 Dec 04 (1p.)
4. LOR, dtd 16 Jul 04 (1p.)
5. LOR, dtd 16 Jul 04 (1p.)
6. LOR, dtd 15 Jul 04 (1p.)
7. LOA, dtd 29 Jun 04, (1p.)
8. RIC, dtd 24 Jun 04 (1p.)
9. Report of Investigation, dtd 6 Jul 04 (33pp.) includes following:
 - a. RIC, dtd 3 Feb 04 (2pp.)
 - b. LOR, dtd 26 Dec 04 (3pp.)
 - c. LOR, dtd 7 Nov 02 (1p.)
 - d. RIC, dtd 25 Oct 02 (1p.)
 - e. LOR, dtd 22 Oct 02 (2pp.)
 - f. RIC, dtd 10 Oct 02
 - g. RIC, dtd 29 Aug 02
 - h. RIC, dtd 19 Apr 02
10. Record of Conviction, dtd 7 Sep 04 (1p.)
11. Receipt of Notification Memorandum
12. Derog Data not included in notification package:
 - a. MFR, dtd 4 Feb 05 (1p.)
 - b. MFR, dtd 4 Feb 05 (1p.)
 - c. MFR, dtd 10 Aug 04 (1p.)
 - c. MFR, dtd 28 May 04(1p.)



DEPARTMENT OF THE AIR FORCE
16TH SPECIAL OPERATIONS WING (AFSOC)
HURLBURT FIELD FLORIDA

MEMORANDUM FOR 16 SOW/CC

MAR 4 2005

FROM: 16 SOW/JA

SUBJECT: Legal Review, Administrative Discharge, A1C [REDACTED]
[REDACTED], 823D RHS

1. **Authority for Action:** We have reviewed the attached administrative discharge package in accordance with AFD 36-32 and AFI 36-3208 and find that it is legally sufficient to support a finding that the respondent, A1C [REDACTED], is subject to discharge for misconduct, more specifically, minor disciplinary infractions, under AFI 36-3208, chapter 5, section H, paragraph 5.49.
2. **Background:** The respondent was notified of the discharge action on 25 Feb 05. He acknowledged receipt of the Notification Memorandum and his right to consult counsel.
3. **Basis for Action:** During the current enlistment:
 - a. The respondent did, at or near Fort Walton Beach, Florida, on or about 28 May 04, contribute to the delinquency of a minor, by providing alcohol to a 16 year old female, for which he pled "no contest" and received a 12 month probation period from the Okaloosa County Court.
 - b. Between on or about 10 Jan 04 and 13 Jan 04, the respondent was derelict in the performance of his duties in that failed to refrain from driving at excessive speeds and wrongfully had facial hair other than a mustache, while in uniform, for which he was punished under Article 15, UCMJ, dated 2 Feb 05, which was filed in his Unfavorable Information File (UIF).
 - c. On 7 Jan 05, the respondent failed to report to work on time, for which he received a Letter of Reprimand (LOR), dated 7 Jan 05, which was filed in his Personal Information File (PIF).
 - d. On 15 Jul 04, the unit was contacted by a collection agency and informed that the respondent had bounced two checks and failed to honor his financial obligations, for which he received an LOR, dated 16 Jul 04, which was filed in his UIF.
 - e. On 13 Jul 04, the respondent failed to comply with AFI 36-2903 with numerous discrepancies in the wear of his uniform and for poor hygiene, for which he received an LOR, dated 16 Jul 04, which was filed in his UIF.
 - f. On 14 Jul 04, the respondent failed a dorm room inspection, for which he received an LOR, dated 15 Jul 04, which was filed in his UIF.
 - g. On 25 Jun 04, the respondent lost his military identification card, for which he received a Letter of Admonishment (LOA), dated 29 Jun 04, which was filed in his PIF.

h. On 23 Jun 04, the respondent failed to keep up with his financial obligations and this office received calls from two creditors, for which he received an LOR, dated 24 Jun 04, which was filed in his PIF.

i. On 8 Dec 04, the respondent failed his dorm room inspection, for which he received an LOR dated, 13 Dec 04, which was filed in his PIF.

j. On 3 Feb 04, the respondent was late in keeping up with his financial obligations, for which he received a Record of Individual Counseling (RIC), dated 3 Feb 04, which was filed in his Personnel Information File (PIF)

k. Between on or about Oct 02 through Nov 02, the respondent had an adulterous relationship with a married woman, which he lied about to the unit First Sergeant, for which he received an LOR, dated 26 Dec 02, which was filed in his PIF.

l. On 6 Nov 02, the respondent failed a scheduled room inspection, for which he received an LOR, dated 7 Nov 04, which was filed in his PIF.

m. The respondent failed a pretest for the A set of your CDC for a third time, for which he received a RIC, dated 25 Oct 02, which was filed in his PIF.

n. On 16 Oct 02, the respondent failed to show up for a mandatory formation, for which he received an LOR, dated 22 Oct 02, which was filed in his PIF.

o. The respondent failed a pretest for the A set of your CDC, for which he received a RIC, dated 10 Oct 02, which was filed in his PIF.

p. On 27 and 28 Aug 02, the respondent failed to get a new hat from Supply as he was directed to do so by a SNCO and a NCO, for which he received a RIC, dated 29 Aug 02, which was filed in his PIF.

q. On 19 Apr 02, the respondent failed to report to commander directed squadron physical training, for which he received a RIC, dated 19 Apr 02, which was filed in his PIF.

4. **Respondent's Military Record:** The respondent has been on continuous active duty since 3 Apr 01. He has received the following ratings on his Enlisted Performance Reports (EPR) – 2002 – 3, 2003 – 4. The respondent is entitled to wear the National Defense Service Medal and the Air Force Training Ribbon.

5. **Respondent's Response:** AIC: [] spoke to the defense paralegal and chose not to consult counsel or submit any further statements on his behalf. He asks only that you consider any statement he submitted in response to a previous nonjudicial action.

6. **Analysis:**

a. **Basis for Discharge:** There is a preponderance of the evidence to establish a basis for discharge under chapter 5, section H, paragraph 5.49 of AFI 36-3208. Under that paragraph, a pattern of minor disciplinary infractions, including failure to comply with nonpunitive regulations or minor offenses under the UCMJ, makes an airman subject to discharge. Infractions of this type result in informal (reduced to writing) or formal counselings (LOCs, LORs), or Article 15 nonjudicial punishments. A1C: [redacted] documented misconduct falls into this category of a pattern of minor disciplinary infractions and establishes a legal basis for discharge.

b. **Should Respondent be Discharged?:** In accordance with AFI 36-3208, chapter 6, paragraph 6.1, when a discharge is not mandatory, the member's potential for future useful service must be considered. You should consider the factors listed in paragraph 6.1.1 before making a final decision to discharge A1C: [redacted]. These factors include how the respondent's retention might affect military discipline, good order, and morale; whether the circumstances that are the basis of the discharge action will continue or recur; and the respondent's potential for advancement and leadership. In this case, A1C: [redacted] continued misconduct and disregard for military standards and policies reveals a lack of personal discipline that is not conducive to military life. His misconduct is detrimental to the maintenance of good order and discipline in his squadron and the United States Air Force. Therefore, even in light of the factors to be considered in paragraph 6.1.1, A1C: [redacted] should be discharged.

c. **Characterization of Discharge:** The Det 1, 835D RHS/CC has recommended a general discharge. AFI 36-3208, chapter 1, Table 1.3, provides that for a misconduct case, the authorized discharges are: (1) an honorable discharge; (2) a general discharge; or (3) a discharge under other than honorable conditions (UOTHC). In order to impose a UOTHC discharge, a member must be given the right to an administrative discharge board. For a case processed using notification procedures, as this one is, only an honorable or a general discharge is authorized. If you believe a UOTHC discharge is appropriate, you have the option of convening an administrative discharge board. However, we do not recommend doing so. Even if you were to conclude that A1C: [redacted] should be discharged because his conduct has been unacceptable, it was not so extreme as to warrant an UOTHC discharge. An honorable discharge is not warranted either. An honorable discharge should be reserved for those whose service is "so meritorious that any other characterization would be inappropriate," pursuant to AFI 36-3208, section B, paragraph 1.18.1. A general discharge should be imposed when "significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of the airman's military record," pursuant to AFI 36-3208, chapter 1, section B, paragraph 1.18.2. We believe a general discharge would be the most appropriate characterization of A1C: [redacted] misconduct and overall military service.

d. **Probation and Rehabilitation:** The initiating commander does not recommend P&R in this case. AFI 36-3208, chapter 7, section A, paragraph 7.3, directs that P&R should be offered to airmen who have demonstrated a potential to serve satisfactorily, who have the capacity to be rehabilitated for continued military service, and whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force.

Throughout his time with the Air Force, A1C [] has not shown the ability to serve satisfactorily, as evidenced by his Article 15 and civilian court case. Over the past two years, A1C [] has been given numerous opportunities to correct his behavior, yet he has failed to take advantage of those opportunities. Based on the nature of A1C [] misconduct and his attitude towards previous opportunities for rehabilitation, P&R is neither warranted nor practicable.

7. **Errors or Irregularities:** None.

8. **Options:** As the Special Court-Martial Convening Authority, you may:

- a. Direct the respondent's retention in the United States Air Force;
- b. Direct that the respondent be discharged from the Air Force with a general discharge without probation and rehabilitation under AFI 36-3208, chapter 5, section H, paragraph 5.49;
- c. Direct that the respondent be discharged from the Air Force with a general discharge, suspending the discharge and ordering a program of probation and rehabilitation in accordance with AFI 36-3208, chapter 7;
- d. Forward a recommendation for separation under paragraph 5.49 with an honorable discharge to the General Court-Martial Convening Authority, AFSOC/CC (AFI 36-3208, paragraph 5.56.2.1); or
- e. Direct reinitiating the package to convene an administrative discharge board if you believe that a UOTHC discharge is warranted.

9. **Recommendation:** We recommend that you sign the attached letter at Tab A directing that the respondent be discharged from the United States Air Force with a general discharge without probation and rehabilitation.

[]

Staff Judge Advocate