

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
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TYPE	GEN	PERSONAL APPEARANCE	X	RECORD REVIEW					
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YES	No								
	X								

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

ISSUES A94.53	INDEX NUMBER A67.50	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="padding: 2px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> <tr><td style="width: 20px; text-align: center; padding: 2px;">1</td><td style="padding: 2px;">ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center; padding: 2px;">2</td><td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center; padding: 2px;">3</td><td style="padding: 2px;">LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center; padding: 2px;">4</td><td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td></tr> <tr><td style="padding: 2px;"></td><td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td style="padding: 2px;"></td><td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td style="padding: 2px;"></td><td style="padding: 2px;">TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td></tr> </table>	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 HEARING
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HEARING DATE 16 Jun 2011	CASE NUMBER FD-2009-00705																	

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.

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 20762-7001
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2009-00705

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 and requests that the review be completed based on the available service record.

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

FINDING: The Board denies the upgrade of the discharge.

ISSUE: Applicant received a General discharge for Misconduct—Conduct Prejudicial to Good Order and Discipline

Applicant submitted no issues regarding the inequity or impropriety of his discharge. The record indicates the applicant received one Article 15, one Vacation, and a Letter of Reprimand. His misconduct included failure to report to place of duty on time (10x), made a false official statement (2x), and stole six compact discs from the Base Exchange. The Board opined that through these administrative actions, the applicant had ample opportunities to change his behavior. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board reviewed the entire record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge.

CONCLUSION: 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 the applicant was provided full administrative due process.

Attachment:
Examiner's Brief

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

OMB No. 0704-0004
OMB approval expires
Oct 31, 2009

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER		
	AB				
e. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON NAMED IN ITEM 11 (Forward notification of any change in address.)			f. TELEPHONE NUMBER (Include Area Code)		
			g. E-MAIL		
			h. FAX NUMBER (Include Area Code)		

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
2002 NOV 20	<input type="checkbox"/> HONORABLE	<input checked="" type="checkbox"/> CHANGE TO HONORABLE
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	BAD CONDUCT (Special court-martial only)	CHANGE NARRATIVE REASON FOR SEPARATION:
360 EQUIPMENT MAINT SQ	UNCHARACTERIZED	
MOUNTAIN HOME AFB ID	OTHER (Explain)	

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 13. See instructions on Page 3.)

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 14. If military documents or medical records are relevant to your case, please send copies.)

9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/>	CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
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10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)	b. TELEPHONE NUMBER (Include Area Code)
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11. APPLICANT MUST SIGN IN ITEM 12.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

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12. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

CASE NUMBER
(Do not write in this space.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

2009 NOV 13

FD2009-00705

**DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD**

AFDRB BRIEF							
NAME (Last, First, MI):			SSN:		DOCKET # FD-2009-00705		COMPONENT: USAF
TYPE OF DISCHARGE: GENERAL		DISCHARGE FROM: MOUNTAIN HOME AFB, ID		DISCHARGE DATE: 20 NOV 02		APPEALS FOR: UPGRADE DISCHARGE TO HONORABLE	
DOB/ ENLMT AGE: 15 JAN 83 18		DISCH AGE: 19		FORMER: AB	HGH: A1C	B. CURRENT DOR: 17 SEP 02	C. TIME LOST: NONE
AFSC: 2W131E - ACFT ARMAMENT SYSTEMS APPRENTICE				DEP DT: 27 JAN 01		ASVAB SCORES:	
D. ART 15 / VAC: ART 15: 1 / VAC: 1		D. LOR, LOA, RIC, LOC: LOR: 1		E. SCM / SPCM / GCM: NONE		ADDITIONAL: (IE. CIVIL CONV, CDC) NONE	
F. RECORD OF SERVICE (EPR/ OPR, PAST TO PRESENT): NONE							
G. AWARDS & DECS: AFOUA, NDSM							
EAD: 01 AUG 01		DAS: 20 APR 02		H. TMS: 1 YRS 9 MOS 25 DAS		TAMS: 1 YRS 3 MOS 20 DAS	
APPLN (DD FORM 293) DTD: 13 NOV 09		DT/ INITIALS: 15MAR11/CM		NPA/PA: NPA		BOARD REGION:	
RECORDS :	MPR: YES	ARMS: YES	STR: NO	ISSUES: NO		ATTACHMENTS: NO	
AUTH FOR DISCHARGE : AFI - 36-3208, PARA 5.50 (A PATTERN OF MISCONDUCT - CONDUCT PREJUDICIAL TO GOOD ORDER & DISCIPLINE).							
ART 15; VAC; SCM; SPMC; GCM; ADDITIONAL:							
<div style="text-align: center;"> <p>LOR: 26 AUG 02 - FAILED TO REPORT ON TIME TO PLACE OF DUTY.</p> <p>(1) ART 15: 29 SEP 02 - (ART 86) FAILED TO REPORT ON TIME TO PLACE OF DUTY ON TWO OCCASSIONS.</p> <p style="padding-left: 150px;">(ART 107) MADE FALSE STATEMENT ON TWO OCCASSIONS.</p> <p>(2) VAC: 23 OCT 02 - (ART 121) STOLE SIX COMPACT DISCS.</p> </div>							
EXAMINER'S NOTE:							
NOTES:							

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

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b. DATE SIGNED - REQUIRED (YYYYMMDD)

2009 NOV 13

CASE NUMBER
(Do not write in this space.)

FD2009-00705



DEPARTMENT OF THE AIR FORCE
366TH FIGHTER WING (ACC)
MOUNTAIN HOME AIR FORCE BASE, IDAHO

5 Nov 02

MEMORANDUM FOR AB

FROM: 366 EMS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct, specifically, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50. If my recommendation is approved, your service can be characterized as honorable or general. I am recommending your service be characterized as general.
2. My reasons for this action are:
 - a. On or about 8 Oct 02, you stole six compact discs of a value of under \$100, the property of the Army Air Force Exchange Service. As a result, you received a Vacation of Suspended Nonjudicial Punishment on 23 Oct 02. (Tab 1, Atch 1).
 - b. On or about 29 Aug 02, you failed to go at the time prescribed to your appointed place of duty on two occasions. On or about 29 Aug 02, you also made a false official statement to two different supervisors. As a result, you received an Article 15, UCMJ, on 17 Sep 02. (Tab 1, Atch 2).
 - c. On or about 26 Aug 02, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a Letter of Reprimand (LOR) on 26 Aug 02. (Tab 1, Atch 3).
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 will decide whether you will be discharged or retained in the Air Force. If you are discharged, he will also determine how your service will be characterized. If 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 made an appointment for you to consult with the Area Defense Counsel on 6 Nov 02 at 0800 hours in building 512. The telephone number is 828-2675. 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 the date of this memorandum unless you request and receive an extension for good cause shown. I will forward them to the separation authority.
6. 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.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available at the Area Defense Counsel's office or your squadron orderly room.

8. You have been scheduled for a medical examination. You must report to the Physical Examination Section at the hospital on Mountain Home AFB. Your scheduled medical examination is on 12 Nov 02 at 0900 hours. You must be in uniform. If you wear glasses, wear them to the scheduled examination.

9. You will surrender your ID card to me immediately. Proceed with a copy of this letter to the Military Personnel Flight (MPF), Customer Service, Building 512, Mountain Home AFB no later than COB TODAY where you will be issued a temporary ID card valid for 90 days. If the discharge action is still pending at the end of 90 days, another temporary ID card will be issued to you until the case is finalized.

10. A copy of this letter also authorizes you to proceed to the Security Forces, Pass and Registration Section, Building 7001, Visitor Control Center, no later than COB TODAY where you will turn in your Mountain Home AFB vehicle sticker and your DoD vehicle decal. They will issue a temporary permit good for 90 days. If the discharge action is still pending at the end of 90 days, another temporary vehicle decal will be issued to you until the case is finalized.

11. Finally, proceed with a copy of this letter to the Traffic Management Office (TMO), in Building 512, immediately after receiving your separation orders from the Separations Section at the MPF for arranging shipment of your household goods.

Maj, USAF

Commander

3 Attachments:

1. Vacation, dtd 23 Oct 02
2. Art 15, dtd 17 Sep 02
3. LOR, dtd 26 Aug 02



DEPARTMENT OF THE AIR FORCE
366TH FIGHTER WING (ACC)
MOUNTAIN HOME AIR FORCE BASE, IDAHO

MEMORANDUM FOR 366 FW/CC

12 NOV 2002

FROM: 366 FW/JA

SUBJECT: Legal Review, AFI 36-3208 Discharge – AB
366th Equipment Maintenance Squadron

1. **Initiation of Action:** On 5 Nov 02, the Equipment Maintenance Squadron Commander, Maj served notification of discharge action against AB (Respondent) pursuant to AFPD 36-32, *Military Retirements and Separation*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.50, Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The commander recommends a general discharge characterization without Probation and Rehabilitation (P&R).

2. **Respondent's Personal Data:** This 19-year-old Respondent has approximately one year and three months of creditable service. The Respondent's current duty title is Aircraft Armament Systems Journeyman. A summary of Respondent's personal data is contained in paragraph two of the Commander's Recommendation for Discharge letter.

3. **Basis for Discharge:** Airmen are subject to discharge under AFI 36-3208, paragraph 5.50, based on a pattern of misconduct consisting solely of those infractions in the current enlistment. Respondent in this matter committed the following misconduct:

<u>Date</u>	<u>Incident</u>	<u>Action</u>
8 Oct 02	Larceny	23 Oct 02 Art 15 vacation action
29 Aug 02	Failed to go False official statements	17 Sep 02 Art 15
26 Aug 02	Failed to go	26 Aug 02 LOR

4. **Respondent's Statement:** Respondent was informed of his right to consult counsel and to submit matters in response to this action. The Respondent consulted counsel and did not submit matters for your consideration. (See Tab 4).

5. **Irregularities:** None.

6. **Discussion:** Once convinced there is a basis for an airman's discharge, you must look at the airman's entire military record in deciding whether it is appropriate to discharge the airman. In this case, it is clear there is a basis for discharge. On 17 Sep 02, he received an Article 15 for two failures to go, one of which was an appointment with Life Skills. Also, he made two false official statements to two different

supervisors relating a friend had been in an automobile accident and was in a coma. He used this excuse to explain why he overslept and was late for work. He apologized in his Article 15 and related he would do any and everything so that it does not happen again. However, three weeks later the Respondent stole six compact discs from the Base Exchange. The Respondent was given ample opportunities to correct his behavior, but those measures did not rehabilitate him. He continues to fail to meet the expected standards of conduct. According to his commander, his misconduct has affected unit readiness and reflects poorly on the squadron. Respondent's discharge is legally sufficient.

7. **Characterization of Service:** Paragraph 1.18 of AFI 36-3208 provides guidance on the types of service characterizations available for administrative discharges. An "honorable" discharge is appropriate when "the quality of an airman's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate" (para 1.18.1). 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" (para 1.18.2). The Respondent's service, as evidenced by the matters supporting this discharge action, is most appropriately characterized as under honorable conditions (general). His repeated misconduct sufficiently outweighs the positive aspects of his one year and three month career that a general discharge is warranted.

8. **Probation and Rehabilitation (P&R):** The Respondent's commander recommends against P&R and we concur. The suitability of persons to serve in the Air Force is judged on the basis of their conduct and their ability to meet required standards of duty performance and discipline. The nature of Respondent's misconduct demonstrates he is not a suitable candidate for P&R. Respondent's behavior failed to improve despite attempts at rehabilitation by the squadron, including a vacation action from an Article 15, an Article 15, and a LOR. The impact of the Respondent's continued military service would be detrimental to the squadron and the United States Air Force.

9. **Convening Authority Options:** As the Special Court-Martial Convening Authority, in accordance with paragraph 5.56 of AFI 36-3208, you may:

- a. Direct this action be withdrawn and retain the Respondent;
- b. Discharge the Respondent with a general discharge with or without P&R;
- c. Recommend to the General Court-Martial Convening Authority, HQ 12 AF/CC, approval of an honorable discharge; or
- d. Return the package for processing according to board procedures. This would permit a UOTHC service characterization.

