

MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
COL LLOYD F. LeROY						X
COL FREDERICK W. HORNICK						X
COL VICTOR R. DONOVAN						X
LT COL RICHARD M. STEDDING, JR.						X
LT COL STEVEN A. SIMON						X
ISSUES	A92.21, 94.53	INDEX NUMBER	A67.90			
HEARING DATE		CASE NUMBER		EXHIBITS SUBMITTED TO THE BOARD		
				1	ORDER APPOINTING THE BOARD	
980820		FD98-00244		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		
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AFHQ FORM 0-454						
REMARKS						
Case heard at Washington, D.C.						
Advise applicant of the decision of the Board, and the right to a personal appearance and the right to submit an application to the AFBCMR.						
SIGNATURE OF RECORDER				SIGNATURE OF BOARD PRESIDENT		
<i>Steven A. Simon</i> STEVEN A. SIMON, LT COLONEL, USAF				<i>Lloyd F. LeRoy</i> LLOYD F. LeROY, COLONEL, USAF		
INDORSEMENT						DATE
						98/08/20
TO:				FROM:		
SAF/MIBR 550 C Street West, Suite 40 RANDOLPH AFB, TX 78150-4742				SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING 3rd Floor ANDREWS AFB MD 20331-7002		
ADVISE THE APPLICANT, NEXT OF KIN, LEGAL GUARDIAN OR OTHER OF THE BOARD'S DECISION. SEE REMARKS SECTION FOR ADDITIONAL INSTRUCTIONS.						

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

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

FINDINGS: Upgrade of discharge is denied.

The Board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety which would justify a change of discharge.

The applicant's issues are in the attached brief.

Issue 1: The applicant cited his post-service conduct (lack of any trouble with law enforcement agencies, schooling) as rationale for upgrade. While the Board was pleased with the applicant's successful transition to civilian life and encouraged him to continue his progress, the Board determined the issue did not warrant an upgrade, as it is not an issue of equity or propriety.

Issue 2: The applicant contended his discharge was inappropriate because he had requested a voluntary discharge, evidence of which was in his record. The Board was unable to find the evidence but affirmed that, even if he had made the request, his commander was by no means required to accept it. The Board concluded the discharge awarded by his commander properly characterized the quality of the applicant's service.

Issue 3: The applicant requested an upgrade as the discharge has harmed his ability to meet his financial obligations. While sympathetic to the difficulty the applicant is enduring, the Board noted that this issue is a collateral consequence of the discharge and not an issue of propriety or equity upon which to base 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.

1 Attachment
Examiner's Brief

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

(Former AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 96/09/09 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 73/07/20. Enlmt Age: 20 5/12. Disch Age: 23 1/12. Educ: HS DIPL. AFQT: N/A M-46, A-70, G-44, E-45. PAFSC: 3P031 - Security Apprentice. DAS: 95/12/11.

b. Prior Sv: AFRes 93/12/21 - 94/05/04 (4 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as: AB 94/05/05 for (4) Yrs. Ext 95/08/18 for 7 months. Ext 95/09/01 for 20 months. Svd: 2 Yrs 4 Mo 5 Das, all AMS.

b. Grade Status: AB - 96/07/03 (ART 15, 96/07/03)
AMN - 96/01/31 (ART 15, 96/01/31)
A1C - 95/09/05
AMN - 94/11/05

c. Time Lost: none.

- d. Art 15's: (1) 96/01/31, Kadena AB, Japan - You did, o/a 17 Jan 96, steal a pair of sunglasses, of a value of about \$12.00, the property of the ----- . Rdn to Amn (susp til 30 Jul 96), forfeiture of \$200.00 pay per month for two months, and 45 days extra duty. (Appeal/Denied) (Mitigation - Forfeiture of \$200.00 pay per month for two months is mitigated to forfeiture of \$200.00 pay per month for two months, suspended until 30 July 1996).
- (2) 96/06/25, VACC, Kadena, Japan - You, who should have known of your duties, o/a 11 Jun 96, were derelict in the performance of those duties in that you willfully drove your privately owned vehicle on the flightline w/o proper auth, as it was your duty not to do. Rdn to Amn, forfeiture of \$200.00 pay per month for two months. (No appeal) (No mitigation).
- (3) 96/07/03, Kadena, Japan - You did, o/a 10 Jun 96, w/o auth, fail to go at the time prescribed to your appointed place of duty. Rdn to AB. (No appeal) (No mitigation).

e. CM: none.

f. Record of SV: 94/05/05 96/04/23 Kadena AB 3 (Initial)
(Discharged from Kadena AB)

g. Awards & Decs: AFTR.

h. Stmt of Sv: TMS: (2) Yrs (8) Mos (19) Das
TAMS: (2) Yrs (4) Mos (5) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 98/03/09.
(Change Discharge to Honorable)

Issue 1: Since my discharge, which was Sept. 10, 1996, I have not been in any trouble. I also attended college at -----.

Issue 2: On my DD 214, it says that my discharge was involuntary which is incorrect. I submitted a letter to my commander requesting a voluntary discharge from active duty. The letter should be in my personal records.

Issue 3: My wife (who is Air Force Active Duty) and I have been on ----- for 3 years. We will be here until Aug 99. Since my discharge, it has been difficult for me to find employment on base. It has been very hard for us to meet our financial responsibilities.

ATCHS

1. Applicant's Statement.

98/07/17/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD98-00244

15 June 1996

MEMORANDUM FOR [REDACTED]

FROM: 18 SPS/CC
Unit 5212
APO AP 96368-5212

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, I am recommending that your service be characterized as general.

2. My reasons for this action are, specifically:

a. On or about 17 Jan 96, you stole a pair of sunglasses, of a value of about \$12, the property of the Army and [REDACTED]. As a result, you received an Article 15. Punishment consisted of suspended reduction to the grade of airman, forfeiture of \$200.00 pay per month for two months, suspended until 30 Jul 96 and 45 days extra duty (Tab 1-1).

b. On or about 27 Mar 96, you failed to report for duty. As a result, you received a Letter of Reprimand and an Unfavorable Information File (Tab 1-2).

c. On or about 11 Jun 96, you willfully drove your privately owned vehicle on the flightline without proper authorization. As a result, your suspended punishment under Article 15 on 31 Jan 96 was vacated on 25 Jun 96 (Tab 1-3).

d. On or about 10 Jun 96, without authority, you failed to go at the time prescribed to your appointed place of duty. As a result, you received an Article 15 (3 Jul 96). Punishment consisted of reduction to the rank of Airman Basic, and 30 days extra duty (Tab 1-4).

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.

3. 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 [REDACTED] at the Area Defense Counsel at Building 1460 on 17 Jul 96 at 0900 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 18 Jul 96 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.
6. You have been scheduled for a medical examination on 90ML96 at 0700 at the Physical Exams Section, 18th Medical Group, Kadena AB, Japan.
7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974. A copy of AFI 36-3208, is available for your use at the Area Defense Counsel office.
8. Execute the attached acknowledgment and return it to me immediately.



Commander, 18th Security Police Squadron

Attachments:

1. Article 15, 31 Jan 96;
LOR, 27 Mar 96;
Vacation of Article 15, 25 Jun 96;
Article 15, 3 Jul 96
2. Airman's Receipt of
Notification Letter

[REDACTED]
[REDACTED]
[REDACTED]

APO, AP 96367-1998

TO: DISCHARGE REVIEW BOARD,

I AM WRITING THIS LETTER IN REGARDS TO THE STATUS OF MY DISCHARGE AND WISH TO REQUEST A REVIEW OF MY PERSONAL RECORDS IN HOPES TO HAVE MY DISCHARGE STATUS CHANGED. I AM REQUESTING TO HAVE IT UPGRADED FROM A GENERAL DISCHARGE TO AN HONORABLE DISCHARGE.

IT HAS BEEN ONE YEAR AND SIX MONTHS SINCE I WAS DISCHARGED FROM ACTIVE DUTY AIR FORCE. SINCE THEN I HAVE ATTENDED COLLEGE AT CENTRAL TEXAS ON ISLAND. I WENT BACK TO THE UNITED STATES IN 1997 FOR SIX MONTHS BEFORE RETURNING BACK TO OKINAWA IN JUNE OF 1997. I WENT BACK TO THE STATES BECAUSE IT WAS VERY DIFFICULT FINDING EMPLOYMENT ON ISLAND DO TO MY CURRENT DISCHARGE STATUS. I RETURNED TO FINISH A FOUR YEAR TOUR WITH MY WIFE, WHO IS ACTIVE DUTY AIR FORCE. I HAVE NOT BEEN IN ANY TROUBLE SINCE THE TIME OF MY DISCHARGE, AND I DON'T PLAN ON GETTING INTO ANY MORE. THE ISSUES THAT TOOK PLACE WHILE IN THE AIR FORCE WERE MY FAULT AND MY RESPONSIBILITY. I WAS LOOKING FOR A WAY TO BE RELEASED FROM ACTIVE DUTY BECAUSE I WAS NOT VERY HAPPY WITH MILITARY LIFE. SINCE THEN I'VE KNOWN THAT IT WAS THE WRONG WAY TO GO ABOUT GETTING OUT OF THE AIR FORCE. I DON'T THINK THE ISSUES