

		PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO	NONE						
	X							
MEMBERS SITTING				NOT TO THE BOARD				
				HON	GEN	UOHC	OTHER	DENY
[REDACTED]					X			
[REDACTED]								X
[REDACTED]								X
[REDACTED]								X
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD				
93.01/92.21		67.90		1	ORDER APPOINTING THE BOARD			
				2	APPLICATION FOR REVIEW OF DISCHARGE			
				3	LETTER OF NOTIFICATION			
HEARING DATE		CASE NUMBER		4	BRIEF OF PERSONNEL FILE			
010420		FD01-00075			COUNSEL'S RELEASE TO THE BOARD			
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
					TAPE RECORDING OF PERSONAL APPEARANCE HEARING			
REMARKS								
Case heard at 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.								
SIGNATURE OF RECORDER				SIGNATURE OF BOARD PRESIDENT				
[REDACTED]				[REDACTED]				
TO:				DATE:				
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742				010420				
FROM:								
				SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, 3 RD FLOOR ANDREWS AFB, MD 20762-7002				

GENERAL: The applicant appeals for upgrade of discharge to General (under honorable conditions).

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 applicant's issues are listed in the attached brief

Issue 1. Applicant contends that he was young and immature at the time of his USAF service and should not be punished indefinitely for his mistakes. The Board, in a thorough review of records, found that the applicant received one Article 15, one Vacation of suspended punishment under Article 15, and three Letters of Reprimand for various acts of misconduct (i.e., failure to obey lawful orders; making false official statements; operating a motor vehicle without a valid license, proper insurance or proper registration; wrongfully attempting to purchase alcohol with a false I.D. while under age, etc.). The Board opined that through these administrative actions and non-judicial punishment, the applicant had ample opportunities to change his negative/repetitive behavior. The many offenses of the applicant, although appearing minor in nature when analyzed individually, amounted to an overall serious problem that could not be tolerated. The Board did recognize that the applicant was 19 years of age when the discharge took place; however, after careful review it found no evidence that the applicant was immature or did not know right from wrong. The Board opined that the applicant was as old as the vast majority of first term members who properly adhere to the Air Force standards of conduct. The Board concluded this issue was without merit.

Issue 2 applies to post-service activities. The Board recognized the applicant's efforts to be a good citizen since his discharge from the service; however, no inequity or impropriety was found which would justify an upgrade of the discharge. The Board concluded that the character of discharge was appropriate due to his misconduct.

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.

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 UOTH Disch fr USAF 93/12/21 UP AFR 39-10, para 5.49b (Misconduct - Conduct Prejudicial to Good Order and Discipline Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 74/01/07. Enlmt Age: 18 4/12. Disch Age: 19 11/12. Educ:HS DIPL. AFQT: N/A. A-95, E-83, G-98, M-90. PAFSC: 3N031 - Public Affairs Apprentice. DAS: 93/01/29.

b. Prior Sv: AFRes 92/05/22 - 92/09/07 (3 months 16 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 92/09/08 for 4 yrs. Svd: 1 Yrs 3 Mo 14 Das, all AMS.

b. Grade Status: ab - 93/09/27 (article 15, 93/09/27)
AMN - Unknown.

c. Time Lost: none.

d. Art 15's: (1) 93/09/27, Vacation, McConnell AFB, KS - Article 107. You, did, o/a 8 Sep 93, with intent to deceive, make to Captain -----, an official statement, to wit: that you hit a tree while riding a friend's dirt bike and injured your knee, which statement was false in that you injured your knee while riding your unregistered motorcycle which you had previously been ordered not to operate until it was properly registered, and was then known by you to be so false; and you did, o/a 9 Sep 93, with intent to deceive, make to MSgt -----, an official statement, to wit: that you did not know the whereabouts of a ----- EOS camera, property of the United States Air Force, which statement was false in that you had said camera in your dormitory room, and was then known by you to be so false. Thirty (30) days restriction, and forfeiture of \$100.00 pay per month for two (2) months. (Appeal/Denied) (No mitigation)

(2) 93/11/18, McConnell AFB, KS - Article 134. You, did, o/a 30 Jul 93, wrongfully attempt to purchase a keg of beer, while under the age of twenty-one, such conduct being of a nature to bring discredit upon the armed

forces. You, did, o/a 30 Jul 93, wrongfully represent as your own a driver's license not issued to you for the purpose of purchasing a keg of beer, such conduct being of a nature to bring discredit upon the armed forces. Rdn to AB, forfeiture of \$100.00 pay per month for two months (susp till 26 Mar 94), 30 days extra duty, and 30 days restriction. (No appeal)
(No mitigation)

- e. Additional: LOR, 05 NOV 93 - Failure to obey a lawful order.
LOR, 21 OCT 93 - Dereliction of duty.
LOR, 17 JUN 93 - Failure to obey a lawful order, operating a motor vehicle without a valid license, failure to properly register vehicle, and making a false statement.
- f. CM: none.
- g. Record of SV: none.
(Discharged from McConnell AFB)
- h. Awards & Decs: AFTR, NDSM, BMTHGR.
- i. Stmt of Sv: TMS: (1) Yrs (7) Mos (0) Das
TAMS: (1) Yrs (3) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/02/18.
(Change Discharge to General)

Dear Sir, I most respectfully ask for a review of my discharge from the United States Air force under Other Than Honorable Conditions.

Since my discharge almost eight years ago, I have worked very hard to make great strides in my personal and professional life since my discharge. Most recently I was employed at the ----- as an Art Director and I now work for a software company in my hometown. I feel disappointed on an almost daily basis that I was not able to contribute my best to the USAF, but I have also committed myself to not reproduce the same mistakes that led to my discharge.

I also respectfully request that several contributing factors be taken into account concerning my discharge namely, I always and in full faith executed my abilities for my position in the fullest extent. My problems were not with the USAF itself of which I am very proud. Rather, they were of a personal nature, and were the result of immature decisions that I now know were unwise.

ATCH
none.

01/03/13/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS EIGHTH AIR FORCE (ACC)
BARKSDALE AIR FORCE BASE, LOUISIANA

F-201-00075

FROM: 8 AF/JA

15 DEC 1993

SUBJ: Review of Recommendation to Involuntarily Discharge Airman Basic [REDACTED]
[REDACTED], 384 MSSQ, McConnell Air Force Base

TO: 8 AF/CXP
8 AF/CC
IN TURN

1. **Background.** Involuntary discharge action has been initiated against Airman Basic [REDACTED] 384th Mission Support Squadron, McConnell Air Force Base, for a pattern of misconduct. Airman [REDACTED] offered an unconditional waiver of his right to an administrative discharge board. The Commander, 384th Bomb Wing, recommends that the waiver be approved, that Airman [REDACTED] be separated with an under other than honorable conditions discharge and that he not be offered probation and rehabilitation. I have reviewed the file and concur with that recommendation.

2. **Authority.** Airmen serve in the Regular Air Force for terms specified by Congress (10 USC 505), but Congress permits early separations under certain specified conditions and also delegates to the Secretary of the Air Force authority to specify other such conditions (10 USC 1169). The Secretary implemented that delegation at AFR 39-10, which governs this case. The Commander, Eighth Air Force, must personally act on misconduct cases in which separation under other than honorable conditions is appropriate. This is such a case.

3. **Basis for Discharge.** A pattern of misconduct, specifically conduct prejudicial to good order and discipline, is cause for discharge under AFR 39-10, paragraph 5-47(b). You must decide whether the allegations are supported in fact, and, if so, whether they support discharge. Airman [REDACTED] has been in the Air Force for only a year and four months. In that short period of time, he has accumulated an impressive record of misconduct. His transgressions include:

a. On 8 September 1993 making a false official statement to an officer by lying about how he suffered an injury to cover up the fact that he was riding an unregistered motorcycle he had earlier been ordered not to ride. Riding the motorcycle in the first place was also cited as a basis for discharge. (Vacation of Suspended Art 15 Punishment)

b. On 15 October 1993 failing to complete an assignment as ordered and sleeping in instead. (LOR)

c. On 30 July 1993 attempting to buy beer when underage and representing his brother's driver's license as his own to facilitate doing so. He intended to supply beer to other underage airmen in the dormitory. (Art 15)

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d. On 25 May 1993 riding an unregistered, uninsured motorcycle on base and failing to obey an order to exit the base and not return riding the motorcycle.

In this pattern of misconduct, Airman ██████ demonstrated a complete lack of regard for the orders of his superiors, for the law and for the truth. His conduct supports discharge.

4. Matters Submitted by the Respondent. On 1 December 1993 Airman ██████ offered an unconditional waiver of his right to an administrative discharge board. He submitted no other matters on his behalf.

5. Errors and Irregularities. There are no errors in the file substantively prejudicial to the respondent.

6. Characterization. You must decide what characterization of service is appropriate if discharge is directed. The unit and wing commanders have recommended an under other than honorable conditions discharge. Usually, discharges for a pattern of misconduct under paragraph 5-47 should be characterized as under other than honorable conditions. There is nothing in this case which warrants departure from this standard. A general discharge may be appropriate when the airman's service has been honest and faithful. Airman ██████ has been neither. He ignored the orders of his superior officers and did not hesitate to lie when it met his purposes. His contempt for them and the Air Force earned him an under other than honorable conditions characterization.

7. Probation and Rehabilitation. Secretarial policies require the separation authority to consider whether discharge should be suspended for a probationary period for rehabilitation. AFR 39-10, paragraph 7-3, provides that probation should be possible for airmen who have the capacity to be rehabilitated for continued military service or for completion of the current enlistment and returned to civilian life without the stigma of discharge for cause. Probation and rehabilitation is inappropriate in this case. Airman ██████ was provided chances to amend his behavior and chose not to avail himself of them.

8. Options. You may:

- a. Direct that Airman ██████ be retained in the Air Force.
- b. Disapprove the offered waiver and return the case for a hearing or other disposition.
- c. Accept the offered waiver and direct that Airman ██████ be discharged with an honorable, general or under other than honorable conditions discharge characterization, with or without suspension of the discharge for a probationary period of rehabilitation.

9. Recommendation. I recommend that you approve the offered waiver and direct that Airman ██████ be separated from the United States Air Force with an under other than honorable conditions discharge and that discharge not be suspended for a probationary period of

1 001 200 73

rehabilitation. Execution of the discharge should be withheld until evidence is included in the file that competent medical authority has determined Airman [REDACTED] to be fit for separation. If you agree, an endorsement effecting such a recommendation is at Tab 1.

[REDACTED]

Assistant Staff Judge Advocate

I concur.

[REDACTED]

[REDACTED]

FROM: 384 BW/JA

7 Dec 93

SUBJ: Involuntary Discharge - AB [REDACTED]

TO: 384 BW/CC

1. **FACTS AND CIRCUMSTANCES.** On 29 Nov 93, [REDACTED] commander of the 384th Mission Support Squadron, recommended [REDACTED] be involuntarily discharged from the United States Air Force pursuant to AFR 39-10, para 5-47b, for a pattern of misconduct that was prejudicial to good order and discipline in the military. [REDACTED] also recommended [REDACTED]'s service be characterized as under other than honorable conditions and recommended against any further rehabilitative efforts in this case.

2. **EVIDENCE:**

a. Evidence for the Government. [REDACTED] has only been in the Air Force since 8 Sep 92. In that short period of time, he has consistently been involved in one incident of misconduct after another.

(1) On 25 May 93, after discovering that he was operating his motorcycle without a license or insurance, the security police ordered the respondent to properly register, license and insure his motorcycle prior to returning it to base. Not only did he fail to do these things, but also made a false statement concerning his failure to accomplish these required tasks. As a result of this misconduct, the respondent received a letter of reprimand which was placed in an unfavorable information file.

(2) On 30 Jul 93, the respondent collected money from unknown friends in the dormitory and went to a liquor store. At the liquor store, he attempted to purchase a keg of [REDACTED] beer using his brother's old driver's license. Subsequent witness interviews conducted by the Security Police indicated that the respondent has consumed alcohol and purchased alcohol for other underage airmen on multiple occasions. For this offense, the respondent received nonjudicial punishment.

(3) On 15 Oct 93, the squadron first sergeant gave the respondent the assignment of stuffing envelopes with questionnaires and then delivering them to the Family Support Center. This was an additional duty imposed as a result of his previous nonjudicial punishment. Instead of performing this duty as ordered, the respondent was found sleeping in his room at 0900. As a result of this misconduct, the respondent received another letter of reprimand.

(4) Finally, on or about 8 Sep 93, despite previous disciplinary action for the same offense, the respondent once again violated an order as well as local law by operating his motorcycle without a proper license, registration or insurance. For this, the respondent received a letter of reprimand. As it turned out, the respondent was involved in an accident on this occasion. When asked how he became injured, he made a false official statement that he hit a tree while riding a friend's dirt bike. Following this offense, the respondent's suspended reduction to Airman Basic was vacated, thus reducing the respondent to the rank of Airman Basic, which action was included in the respondent's unfavorable information file.

b. Evidence for the Respondent. [REDACTED] waived his right to submit written matters for your consideration. However, he did submit an unconditional waiver of his right to an administrative discharge board.

3. DISCUSSION:

a. According to AFR 39-10, para 6-2b(2), airmen are also entitled to an administrative discharge board if their commander recommends they receive an under other than honorable conditions discharge. However, that right may be waived conditionally or unconditionally. In this case, as stated above, the respondent submitted an unconditional waiver of this right. In other words, the respondent has waived this right regardless of the characterization of discharge recommended.

b. AFR 39-10, para 5-45a, states that under normal conditions, discharges under para 5-47, such as this one, should be under other than honorable conditions. The commander in this case, [REDACTED] has recommended an under other than honorable conditions discharge. AFR 39-10, para 1-18c, states that an under other than honorable conditions discharge may be appropriate "when the reason for separation is based on a pattern of behavior...that constitutes a significant departure from the conduct expected of airmen." The respondent's conduct in this case clearly falls within these requirements. His behavior since entering the Air Force fails to even come close to the level of conduct we expect from airmen.

4. **OPINION AND RECOMMENDATION.** In my opinion, the evidence in the file is factually and legally sufficient to support [REDACTED] recommendation that AB [REDACTED] be involuntarily discharged from the Air Force with an under other than honorable conditions discharge. Therefore, I believe you should recommend to the separation authority, 8 AF/CC, that he accept [REDACTED] unconditional waiver request and separate him with an under other than honorable conditions discharge.

[REDACTED]

1 Atch
Ltr Recommending Acceptance of
Unconditional Waiver Request

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 384TH BOMB WING (ACC)
MCCONNELL AIR FORCE BASE, KANSAS

FROM: MSSQ/CC

29 NOV 1993

SUBJ: Notification Letter--Board Hearing

TO: A [REDACTED]

1. I am recommending your discharge from the United States Air Force for [REDACTED] of Misconduct-Conduct Prejudicial to Good Order and Discipline according to AFR 39-10, under the provisions of para 5-47b. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. You did, on or about 8 Sep 93, make a false official statement to Capt [REDACTED] telling him that you hit a tree while riding a friend's dirt bike and injured your knee, which statement was false in that you injured your knee while riding your unregistered motorcycle which you had previously been ordered not to operate until it was properly registered, as evidenced by an AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, 19 Nov 93 and an AF Form 1058, Unfavorable Information File Action, 15 Nov 93.

b. You did, on or about 8 Sep 93, fail to obey a lawful order given to you by SMSgt [REDACTED] not to ride your motorcycle until it was properly registered and you obtained a valid driver's license, as evidenced by a Letter of Reprimand, 5 Nov 93.

c. You did, on or about 15 Oct 93, fail to take questionnaires to the Family Support Center and instead were found sleeping in your room, as evidenced by a Letter of Reprimand, 21 Oct 93.

d. You did, on or about 30 Jul 93, wrongfully attempt to purchase a keg of beer, while under the age of 21, as evidenced by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, 4 Oct 93 and an AF Form 1058, 26 Oct 93.

e. You did, on or about 30 Jul 93, wrongfully represent as your own a driver's license not issued to you for the purpose of purchasing a keg of beer, as evidenced by an AF Form 3070, 4 Oct 93 and an AF Form 1058, 26 Oct 93.

f. You did, on or about 25 May 93, fail to obey a lawful order to exit the base and not return riding your motorcycle without proper credentials, as evidenced by a Letter of Reprimand, 17 Jun 93 and an AF Form 1058, 25 Jun 93.

g. You did, on or about 25 May 93, operate a motor vehicle without a valid license or proper insurance, failed to properly register your vehicle and made a false official statement, as evidenced by a Letter of Reprimand, 17 Jun 93 and an AF Form 1058, 25 Jun 93.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to:

a. Consult legal counsel.

b. Present your case to an administrative discharge board.

c. Be represented by legal counsel at a board hearing.

d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.

e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for two mandatory medical examinations at the 384th Medical Group. You are to report to the Physical Exams Section at 0715 on 1 Dec 93 and Primary Care at 1500 on 3 Dec 93. Bring your records to both appointments. If you wear glasses, bring them with you. If you wear contacts, have them out 12 hours prior to both appointments.

6. Military legal counsel, Capt. [REDACTED] Area Defense Counsel, Bldg 328, ext 4375, has been obtained to assist you. An appointment has been scheduled for you to consult her on 1 Dec 93 at 1100. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. Any personal information you furnish in rebuttal is covered By the Privacy Act Statement as explained in AFR 39-10, attachment 2. A copy of AFR 39-10 is available for your use in your orderly room.

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



Commander

9 Atch

1. AF Form 366, 19 Nov 93
2. AF Form 1058. 15 Nov 93
3. LOR, 5 Nov 93
4. LOR, 21 Oct 93
5. AF Form 3070. 4 Oct 93
6. AF Form 1058. 26 Oct 93
7. LOR, 17 Jun 93
8. AF Form 1058. 25 Jun 93
9. Receipt of Notification Ltr