

PERSONAL APPEARANCE		X RECORD REVIEW				
NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO	NONE				
X						
MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					1	X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
ISSUES		MATTERS REFERRED TO THE BOARD				
A01.55, A93.11		1 ORDER APPOINTING THE BOARD				
INDEX NUMBER		2 APPLICATION FOR REVIEW OF DISCHARGE				
A47.00		3 LETTER OF NOTIFICATION				
HEARING DATE		4 BRIEF OF PERSONNEL FILE				
01-05-11		COUNSEL'S RELEASE TO THE BOARD				
CASE NUMBER		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE				
FD01-00085		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:		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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-01-00085

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 available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an inequity or impropriety that would justify a change of the discharge.

Issues. Applicant received a general discharge for a pattern of dishonorable failure to pay just debts. His misconduct included writing at least 14 bad checks to various businesses totaling at least \$730.00, some written on a closed account, failure to properly maintain the unit leave program, and failure to go. For his actions, member received Letters of Reprimand, Records of Individual Counseling, an Unfavorable Information File, was placed on the Control Roster, was sent for financial counseling which he elected to terminate, received two Articles 15, and had a suspended reduction vacated. All of these actions occurred over a 10-month period. At the time of the discharge, member waived his right to submit statements in his own behalf. Member now relates he was promised a miscellaneous discharge, and that he was kept on active duty an additional 2 weeks in order to change the characterization of the discharge. The Board could not confirm this contention through the record review. The Board noted however that member had enlisted for 4 years and at the time of discharge had only served about one and a half years. In view of that circumstance, member's inference that he expected an honorable discharge is questionable. The record revealed applicant was age 21 when the misconduct occurred. There is no evidence of record he was immature and did not know right from wrong. Furthermore, he was repeatedly counseled and given numerous opportunities to improve and was either unwilling or unable to do so.

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 AEB, MD

(Former AB)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 92/08/20 UP AFR 39-10, para 5-47d (Misconduct - Pattern Dishonorable Failure To Pay Just Debts). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 69/12/12. Enlmt Age: 20 8/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-87, E-68, G-82, M-52. PAFSC: 73230 - Apprentice Personnel Specialist. DAS: 91/12/01.

b. Prior Sv: AFRes 90/09/05 - 91/03/05 (6 months 1 day) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enld as AB 91/03/06 for 4 yrs. Svd: 1 Yrs 5 Mo 15 Das, all AMS.

b. Grade Status: AB - 92/02/25 (Article 15, Vacation, 92/07/28)
AMN - 91/09/06

c. Time Lost: none.

- d. Art 15's: (1) 92/08/03, Hill AFB, UT - Article 134. You, being indebted to -----, in the sum of \$140.72, for cash and merchandise, which amount became due and payable between o/a 13 Jun 92 and 22 Jun 92, did, o/a 20 Jul 92 and o/a 27 Jul 92, dishonorably fail to pay said debt. Restriction for 30 days, and a reprimand. (No appeal) (No mitigation)
- (2) 92/07/28, Vacation, Hill AFB, UT - Article 123a. You, did, o/a 9 and 11 July 92 make or utter to the ----- in -----, two checks #1037 and #1039 totalling \$12.59, drawn on the -----, and you did thereafter negligently fail to maintain sufficient funds in said bank for the payment of the checks upon there presentation for payment. Rdn to AB. (No appeal) (No mitigation)
- (3) 92/02/25, Hill AFB, UT - Article 86. You did, o/a 14 Feb 92, w/o authority, fail to go at the time precribed to your appoined place of duty. Rdn to AB (susp till 23 Aug 92) 30 days extra duty, and 30 days restriction. (No appeal) (No mitigation)

e. Additional: MFR/UIF 04 NOV 91 - Financial irresponsibility.

MFR/UIF 18 FEB 92 - Financial irresponsibility.
 RIC, 15 JUL 92 - Dereliction of duty.
 RIC, 17 JUL 92 - Dereliction of duty.

f. CM: none. ...

g. Record of SV: none.

(Discharged from Hill AFB)

h. Awards & Decs: **NDSM**, AFTR.

i. Stmt of Sv: TMS: (1) Yrs (1) Mos (16) Das

TAMS: (1) Yrs (5) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/03/02.
 (Change Discharge to Honorable)

Issue 1: I applied for an "Early-out" in the early summer of 1992, it was approved, after bouncing a couple checks, my First Seargent (sic) said "we are not going to let you out, we are going to throw you out."

He kept me around 2 weeks longer than my original "out" date just to throw me out.

This cost the government food, pay, and quarters for me. I would like to have the discharge I was originally supposed to get.

ATCH
 none.

01/03/28/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS OGDEN AIR LOGISTICS CENTER (AFMC)
HILL AIR FORCE BASE, UTAH

Reply to

Attn Of: JAM-CL (██████████ 777-7441)

7 August 1992

Subject: Legal Review - Administrative Discharge under AFR 39-10, paragraph 5-47d, Airman Basic ██████████ ██████████ 34 FS (ACC) ██████████

To: 2849 ABG/CC

1

1. Basis for Action. On 5 August 1992, the Commander, 34 FS, notified the respondent that he was recommending his discharge from the service for misconduct involving the dishonorable failure to pay just debts under AFR 39-10, paragraph 5-47d. The Commander recommended a general discharge without probation and rehabilitation (P & R). This case is being processed by the notification procedure and the worst characterization authorized is a general discharge.

2. Evidence for the Commander. The evidence supporting the Commander's recommendation consists of his administrative determination of the following instances of the respondent's dishonorable failure to pay just debts:

a. Between 7 August 1991 and 28 August 1991, the respondent wrote eight checks totalling over \$580.00 without having sufficient funds in his account to cover the checks on presentment to his bank. Along with the eight bad checks, the respondent also had a number of outstanding loans and bills that were due and owing. For his actions, he received a Letter of Reprimand which was placed in the unfavorable information file (UIF) established by the Commander. The respondent was also placed on a control roster for his gross financial irresponsibility. This pattern of financial irresponsibility was also documented on 4 November 1991, in a Memorandum For Record, and on 18 February 1992, in a Memorandum For Record.

b. Between 8 July 1992 and 12 July 1992, the respondent wrote two checks to the Philadelphia Sub Shop totalling \$12.59 without having substantial funds in his account to cover these checks on presentment to his bank. As a result, he received a vacation of suspended nonjudicial punishment from a 25 February 1992, Article 15, and was reduced to the rank of Airman Basic. The respondent had received nonjudicial punishment under Article 15 for failing to go at the time prescribed to his appointed place of duty. For his failure to go, he had received a reduction to the grade of Airman Basic which was suspended until 25 August 1992, at which time it would have been remitted without further action. The respondent also received 30 days additional duty and restriction to Hill AFB for 30 days for his failure to go.

c. Between 12 June 1992 and 23 June 1992, the respondent wrote four checks on a closed account totalling over \$140.00 to Wal-Mart in Layton, Utah. For writing these bad checks, the respondent received nonjudicial punishment under Article 15 consisting of a Letter of Reprimand for financial irresponsibility, and restriction to Hill AFB for 30 days.

d. In addition to his failure to pay just debts, on 15 July 1992 and 17 July 1992, the respondent received records of individual counseling for his failure to maintain the squadron leave program properly. As a result, he was relieved from his responsibilities in the squadron orderly room and was tasked to be a typist and runner for the squadron.

3. Evidence for the Respondent. The Commander notified the respondent of his right to submit a statement on his **own** behalf. After consulting legal counsel, the respondent waived his right to submit a statement on his own behalf.

4. Errors or Irregularities. We noted one typographical error on the Notification Letter. The respondent received nonjudicial punishment under Article 15 on 25 February 1992 instead of **20** February 1992. This typographical mistake does not create an error of legal significance.

5. Discussion. An airman may be administratively discharged for a pattern of misconduct in the current enlistment consisting wholly or in part of misconduct more serious than minor disciplinary infractions. The pattern of misconduct may consist of a dishonorable failure to pay just debts.

In this case, the respondent has demonstrated a clear pattern of misconduct involving the dishonorable failure to pay just debts. The respondent wrote at least 14 bad checks totalling over \$730.00 without having sufficient funds in his checking account to cover the checks upon presentment to his bank. The respondent has been given numerous opportunities to bring his actions in conformity with Air Force standards, yet he has failed to change his behavior. His actions demonstrate that he should be discharged with no less than a general discharge. AFR 39-10, paragraph 5-45d provides that the service of a member discharged for misconduct may be characterized as honorable only if the member's service record has been **so** meritorious that any other characterization would be inappropriate. This is clearly not the case in the respondent's situation. In addition to his failure to pay just debts, the respondent received nonjudicial punishment under Article 15 for failing to go at the prescribed time to his appointed place of duty and he received counseling for his failure to maintain the squadron leave program. **As** can be determined by the facts, a general discharge is appropriate in this case. We also recommend that P & R not be offered in this case. The respondent's continued irresponsible behavior after numerous attempts to bring his conduct into conformity with Air Force standards demonstrate that further attempts rehabilitation would be futile.

6. Options. As separation authority, you have the following options:

- a. Order the action terminated;
- b. Return the action to the squadron, and order the action initiated under a more appropriate discharge provision;
- c. Recommend to the GCM authority that the respondent be discharged with an honorable discharge characterization with or without P & R; or
- d. Order that the respondent be discharged with a general discharge characterization with or without P & R.

7. Recommendation. We recommend that you order the respondent's separation from the Air Force with a general discharge without P & R under AFR 39-10, paragraph 5-47d, for the dishonorable failure to pay just debts. We recommend debarment.



1 'Atch
Case file

exercising special court martial jurisdiction or 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 counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult with ~~_____~~ in Bldg 146 on 7 AUG 1992 at 0800 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 11 AUG 1992, unless you submit 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. You must report to the Physical Exam Section, USAF Hospital Hill at 0700 hours on 6 AUG 1992.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 1. A copy of AFR 39-10 is available for use in the 34 FS Orderly Room.

8. Execute the attached acknowledgement and return to me immediately.

