

ISSUES A92.37, A93.23, A67.05	INDEX NUMBER A67.50	EXHIBITS SUBMITTED TO THE BOARD	
		1	ORDER APPOINTING THE BOARD
HEARING DATE 02-01-03	CASE NUMBER FD2001-0332	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 DISSENT AND THE BOARD'S DECISIONAL RATIONALE ARE DISCLOSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

REMARKS
Case heard at Washington, D.C.
Advise applicant of the decision of the Board, the right to a personal appearance with/without counsel.
DD Form 149 submitted. The case will be forwarded to the AFBCMR for further processing.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
	
ENDORSEMENT	
DATE: 02-01-03	

TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002
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The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant was discharged for misconduct, discreditable involvement with military authorities. He had three Letters of Reprimand, a Letter of Counseling, an Article 15, and Unfavorable Information File. His misconduct included several instances of derogatory language toward superior noncommissioned officers, his commander, and law enforcement desk sergeant, and at least two instances of dereliction of duty. At the time of the discharge, applicant submitted a letter explaining his version of each incident of misconduct, and noting a mental health evaluation wherein member was diagnosed with a personality disorder with narcissistic and schizoid features, and an occupational problem. Member requested an honorable characterization, and further noted his infractions were a result of his disorder, and he should not be penalized because his condition made him incompatible with military service. Furthermore, although member's commander had recommended an under other than honorable conditions (UOTHC) discharge, and member was a non-commissioned officer who was board entitled, member waived his right to an administrative discharge board conditioned upon receipt of no less than a general (under honorable conditions) characterization. This request was granted. The Board noted that in spite of member's personality disorder, he was still responsible for his actions of misconduct and must be held accountable for those. He was counseled repeatedly and given numerous opportunities to improve his behavior but failed to respond to those rehabilitative efforts. Furthermore, existence of a character and behavior disorder does not bar separation for any other authorized reason, such as misconduct, if that reason is more appropriate; a discharge for personality disorder is not appropriate if the airman's record supports discharge for misconduct. No inequity or impropriety was found in this discharge in the course of the records review.

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

2. BACKGROUND:

a. DOB: 54/11/15. Enlmt Age: 25 0/12. Disch Age: 34 2/12. Educ:HS DIPL.
AFQT: N/A. A-86, E-64, G-96, M-63. PAFSC: 81172A. - Law Enforcement
Supervisor. DAS: 84/11/10.

b. Prior Sv: (1) AFRes 79/12/04 - 79/12/25 (22 days) (Inactive).

(2) Enld as A1C for 4 yrs. Extended 82/03/19 for 4 months.
Extended 83/05/13 for 12 months. Reenld 83/09/26 for 4 yrs. Svd: 7 yrs 6 months
5 days, all AMS. SRA-(LOE Indicates): 81/08/10-81/10/12. SGT- (LOE Indicates):
83/09/20-83/11/25. SSGT - 83/01/01. APRs: 9,9,9,9,8,8,8.

3. SERVICE UNDER REVIEW:

a. Reenld as SSGT 87/07/01 for 6 yrs. Svd: 01 Yrs 07 Mo 05 Das, all AMS.

b. Grade Status: SRA - 88/12/12 (NCO Vacation)
SGT - 88/11/30 (Article 15, 88/11/30)

c. Time Lost: none.

d. Art 15's: (1) 88/11/30, Minot AFB, ND - Article 92. You, who knew of
your duties at Minot AFB, ND, on or about 15 Nov 88, were
derelict in the performance of those duties in that you
willfully failed to meet the time required in the training
schedule of your military working dog. Rdn to Sgt,
forfeiture of \$242.00 pay (suspended until 29 May 89).
(No appeal) (No mitigation)

e. Additional: LOR, 12 DEC 88 - Referring to supervisors in a derogatory
manner.
LOR, 13 AUG 88 - Failure to report damage to government
owned vehicle and failure to clean it.
LOR, 21 MAR 88 - Disrespect to an NCO.
LOC, 13 JAN 88 - Misbehavior to law enforcement.

f. CM: none.

g. Record of SV: 87/03/30 - 87/12/18 Minot AFB 9 (CRO)

(change Discharge to honorable)
NO ISSUES SUBMITTED.

ATCH

1. Letter to SAF/MRBR.

01/11/06/ia

1. We have reviewed the attached AFR 39-10 separation case file concerning SrA [REDACTED]. It legally and factually supports the recommendation by the Commander, 57th Air Division, to separate him for a pattern of misconduct.

2. BACKGROUND: On 30 December 1988, the 857 SPS/CC initiated this separation action under AFR 39-10, paragraph 5-47a (pattern of misconduct). He recommended an under other than honorable conditions (UOTHC) discharge without probation and rehabilitation (P&R). On 3 January 1989, SrA [REDACTED] submitted a conditional waiver of his right to a discharge board in return for no less than a general discharge. The 57 AD/CC recommends acceptance of the conditional waiver and issuance of a general discharge without P&R.

3. SUMMARY OF THE EVIDENCE:

a. On 11 January 1988, then-SSgt [REDACTED] used indecent language to the law enforcement desk sergeant in the presence of other NCOs. Two days later, he was argumentative with his military working dog trainer. He was counseled.

b. On 15 March 1988, he was disrespectful to a superior noncommissioned officer. He received a letter of reprimand with an Unfavorable Information File (UIF) entry.

c. On 8 August 1988, he failed to report damage to a government vehicle in his possession and failed to clean the vehicle so it could be turned in for maintenance. He received a letter of reprimand.

d. On 15 November 1988, he was derelict in his duties by willfully failing to meet the time requirements in the training schedule of his military working dog. He received nonjudicial punishment consisting of a reduction from staff sergeant to sergeant and a suspended forfeiture of \$242.00 pay.

e. On 21 November 1988, he referred to his commander, Capt [REDACTED], and two superior NCOs, in a derogatory fashion. He received a letter of reprimand with a UIF entry.

f. SrA [REDACTED] is 34 years old and married with one dependent. He has been on active duty since 26 December 1979 and has received overall APR ratings of "7," "9," "8," "8," "8," "9," "9," "9," "9," listed from the most recent to the oldest. He submitted a statement rebutting and explaining each incident cited as part of the stated basis of his discharge. He denies referring to the desk sergeant in derogatory fashion and states the minor verbal altercation with the dog trainer was initiated by the subordinate dog trainer's rudeness. He denies being disrespectful to his superior NCO and explains the delay in moving his POV

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Junior Enlisted; he noted the positive aspects of his duty performance. He notes the results of his mental health evaluation and asks that his personality disorder be considered as a mitigating factor. He asks for an honorable discharge.

4. DISCUSSION:

a. A 7 December 1988 Mental Health evaluation stated that SrA [REDACTED] has a longstanding personality disorder (character and behavior dysfunction) which is so severe that his ability to function in the military environment is significantly impaired. It recommended administrative separation IAW AFR 39-10, paragraph 5-11i. However, it also stated that his disorder did not warrant medical separation under the provisions of AFR 35-4 and that he was medically qualified for worldwide duty. AFR 39-10, paragraph 5-11, states that the existence of a mental disorder, "does not bar separation for any other reason authorized in this regulation. Discharge under this provision is not appropriate if the airman's record would support discharge for another reason, such as misconduct..."

b. The evidence in the case file establishes a pattern of misconduct consisting of discreditable involvement with military authorities during SrA [REDACTED] current enlistment. This misconduct outweighs his otherwise honest and faithful service and supports a general discharge. His character and behavior disorder helps to explain but does not excuse his misconduct. His apparent inability or unwillingness to correct his behavior makes him an inappropriate candidate for P&R.

5. RECOMMENDATION: That the conditional waiver be accepted and that SrA [REDACTED] be separated with a general discharge without P&R, IAW AFR 39-10, paragraph 5-47a.

[REDACTED]
Colonel, USAF
Staff Judge Advocate

1 Atch
Case File - [REDACTED]

prior to the expiration of his term of enlistment because of a pattern of misconduct, more specifically, discreditable involvement with military authorities pursuant to AFR 39-10, paragraph 5-47a. The commander has recommended that subject be given an under other than honorable conditions discharge.

2. SrA [REDACTED], age 34, enlisted in the United States Air Force on 1 July 1987 for a term of 6 years. He previously served from 26 December 1979 through 30 June 1987 in the United States Air Force. SrA [REDACTED] was in the Delayed Enlistment Program from 4 December 1979 through 25 December 1979. Since being assigned to Minot Air Force Base, SrA [REDACTED] referred to a commissioned officer in a derogatory fashion. In addition, he referred to other noncommissioned officers in a derogatory or disrespectful manner on more than one occasion. SrA [REDACTED] was also derelict in his duties when he willfully failed to meet the time requirements for training his assigned military working dog. Finally, SrA [REDACTED] failed to report damage to a government owned vehicle that occurred while the vehicle was in his possession and then failed to clean the vehicle so it could be turned in for maintenance.

3. SrA [REDACTED], after being counseled by Captain [REDACTED], a judge advocate, concerning the rights and privileges extended under AFR 39-10, waived his right to a board by submitting a conditional waiver for no less than a general discharge. SrA [REDACTED] submitted a statement on his own behalf. In his statement, SrA [REDACTED] attempts to justify the incidents of misconduct that make him subject to discharge. He also refers to a personality disorder that was diagnosed by the 857th Strategic Hospital, Mental Health Clinic, in December 1988. The report of the mental health evaluation is located at Tab 7 of this package. Although the disorder was diagnosed as one that is so severe that SrA [REDACTED] ability to function in the Air Force is significantly impaired, the examining physician noted that SrA [REDACTED] understands the nature and probable consequences of his acts and that he can distinguish right from wrong and adhere to the right. In his statement, SrA [REDACTED] asserts that, to some extent, his disorder should excuse, or at least mitigate, his misconduct. Finally, SrA [REDACTED] states his belief that he has served the United States in an honorable fashion and asks for an honorable discharge. At Tab 4 of this package are records of SrA [REDACTED] favorable achievements.

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contingent upon a general discharge, with or without suspension for probation and rehabilitation to 15 AF/CC.

e. Forward your recommendation for an honorable discharge, with or without suspension for probation and rehabilitation to 15 AF/CC.

5. The file is legally sufficient to support SrA [REDACTED] discharge from the United States Air Force. SrA [REDACTED] is clearly subject to discharge. His misconduct and failure to respond favorably to rehabilitative efforts are proof that he will not conform to Air Force standards. As noted above, SrA [REDACTED] was diagnosed as having a personality disorder so severe that his ability to function in the military environment was significantly impaired. With this diagnosis, SrA [REDACTED] would have been subject to discharge under paragraph 5-11i if he had not engaged in misconduct that made him subject to discharge. However, AFR 39-10 states in paragraph 5-11 that discharge under any subpart of paragraph 5-11 is not appropriate if the airman's record would support discharge for another reason. It is in the best interests of the Air Force to discharge SrA [REDACTED] as quickly as possible. Furthermore, we believe that some weight should be given to SrA [REDACTED] personality disorder in deciding the character of his discharge. Accordingly, it is recommended that you forward your recommendation for the acceptance of the waiver contingent upon the receipt of a general discharge without suspension for probation and rehabilitation to 15 AF/CC. The Commander, 857 SPS, has been consulted and concurs with the recommendation to accept the conditional waiver contingent upon the receipt of a general discharge.

[REDACTED]
[REDACTED] Lt Col, USAF
Staff Judge Advocate

pattern of misconduct, more specifically, discreditable involvement with military authorities, according to AFR 39-10, under the provisions of paragraph 5-47a. 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. On or about 21 November 1988, at Minot Air Force Base, North Dakota, while engaged in a conversation with Technical Sergeant [REDACTED] 857 SPS, you referred to your commander, Captain [REDACTED] in a derogatory fashion. During that same conversation, you also referred to your superiors, Technical Sergeant [REDACTED] and Master Sergeant [REDACTED] in a derogatory fashion. For these offenses you received a Letter of Reprimand on 12 December 1988.

b. On or about 15 November 1988, at Minot Air Force Base, North Dakota, you were derelict in your duties in that you willfully failed to meet the time requirements in the training schedule of your assigned military working dog. For this offense you received nonjudicial punishment on 7 December 1988.

c. On or about 8 August 1988, you failed to report damage to a government owned vehicle (GOV) that occurred while the GOV was in your possession. In addition, you failed to clean the vehicle so that it could be turned in for maintenance. For these offenses you received a Letter of Reprimand on 13 August 1988.

d. On or about 15 March 1988, you were disrespectful to Master Sergeant [REDACTED], a superior non-commissioned officer, for which you received a Letter of Reprimand dated 21 March 1988.

e. On 11 January 1988, you referred to the law enforcement desk sergeant as a "dumb ass mother fucker". On 13 January 1988, you displayed an argumentative attitude toward the military working dog trainer. For these incidents you received a Letter of Counselling dated 13 January 1988.

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 (57 AD/CC) 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.

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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 a medical examination. You **must** report to the Base Hospital, Physical Exams Section, at 0800 hours on 29 December 1988.

6. Military legal counsel, Captain [REDACTED], Area Defense Counsel, Bldg 475, AFIT Room 29, has been obtained to assist you. An appointment has been scheduled for you to consult her at her office, at 1500 hours on 30 Dec, 1988. 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 which you submit in rebuttal is covered by the Privacy Act Statement which is explained in AFR 39-10, Attachment 6. A copy of AFR 39-10 is available in the Orderly Room for your use.

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

[REDACTED]
[REDACTED] Capt, USAF
Commander

3 Atch

1. Supporting Documents for the Reasons for Discharge
2. Documents Containing Derogatory Information Which are not Listed in Letter of Notification
3. Airman's Acknowledgment