

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]	<b>GRADE</b> AB	<b>AFSN/SSAN</b> [REDACTED]
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<b>TYPE</b>	<b>PERSONAL APPEARANCE</b>	<b>X RECORD REVIEW</b>
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<b>CD/UNSEL</b>	<b>YES</b>	<b>NO</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>
		X		

<b>MEMBERS SITTING</b>	<b>VOIE OF THE BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

<b>ISSUES</b> A94.05	<b>INDEX NUMBER</b> A67.10	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
<b>HEARING DATE</b> 18 JUN 02	<b>CASE NUMBER</b> FD2002-0007	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 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, and the right to submit an application to the AFBCMR

<b>SIGNATURE OF RECORDER</b> [REDACTED]	<b>SIGNATURE OF BOARD PRESIDENT</b> [REDACTED]
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<b>ENDORSEMENT</b>	<b>DATE: 18 JUN 02</b>
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<b>TO:</b> SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD02-0007

**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 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.

**ISSUE:** Applicant contends discharge was inequitable because it was too harsh. He states that under current standards, he would not have received the type of discharge he did. Also, member contends that his conduct and efficiency ratings and behavior were mostly pretty good and that he has been a good citizen since his discharge. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received an Article 15 for failing to report a government vehicle accident and without proper authority, through neglect, damaged a government vehicle by driving the vehicle into a wall. Also, the applicant received two Letters of Reprimand for having a vehicle mishap and failure to maintain control of his military working dog. And, he received a Letter of Counseling for dereliction of duty and five Memo's for Record for failing room inspection, being late for duty, failure to maintain control of his military dog and leaving his post prior to relief. The applicant had one EPR and it was a referral. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members and concluded that the characterization of the applicant's discharge was appropriate due to the 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, thus the applicant's discharge should not be changed.

Attachment:  
Examiner's Brief

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

(Former AB) (HGHA1C)

**1. MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/01/13 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

**2. BACKGROUND:**

a. DOB: 70/07/27. Enlmt Age: 18 2/12. Disch Age: 21 5/12. Educ: HS DIPL. AFQT: N/A. A-45, E-51, G-55, M-56. PAFSC: 8113A - Apprentice Law Enforcement Specialist. DAS: 90/01/28.

b. Prior Sv: (1) AFRes 88/10/17 - 89/06/29 (8 months 13 days) (Inactive).

**3. SERVICE UNDER REVIEW:**

a. Enlisted as AB 89/06/30 for 4 yrs. Svd: 02 Yrs 06 Mo 14 Das, all AMS.

b. Grade Status: AB - 91/10/10 (Article 15, 91/10/10).  
A1C - 90/10/30

c. Time Lost: none.

d. Art 15's: (1) 91/10/10, Sembach AB, Germany - In that you, who knew or should have known of your duty, on or about 20 Sep 91, were derelict in the performance of those duties in that you willfully failed to report a government vehicle accident, as it was your duty to do. Further investigation has disclosed that you did, on or about 20 Sep 91, without proper authority, through neglect, suffer a government vehicle of a value in excess of \$1,000.00, military property of the United States, to be damaged by driving the vehicle into a wall, the amount of said damage being in the sum of about \$401.23. Reduction to AB, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: MFR, UNDATED - Leaving post prior to relief.  
LOR, 09 JAN 91 - Vehicle mishap.  
MFR, 09 JAN 91 - Failed room inspection.  
LOR, 26 DEC 90 - Failure to maintain control of military working dog.  
MFR, UNDATED - Late for duty.  
MFR, 17 DEC 90 - Failure to maintain control of military dog.  
MFR, 21 DEC 90 - Late for duty.  
LOC, 15 DEC 90 - Dereliction of duty.

f. CM: none

g. Record of SV: 89/06/30 - 91/03/16 Semback AB 2 (Initial)REF

(Discharged from Charleston AFB)

h. Awards & Decs: SAEMR, NDSM, AFTR, AFOUA.

i. Stmt of Sv: TMS: (03) Yrs (02) Mos (27) Das

TAMS: (02) Yrs (06) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/12/28.  
(Change Discharge to Honorable)

Issue 1: Under current standards, I would not receive type of discharge I did.

Issue 2: My conduct and efficiency ratings/behavior and proviciency marks were mostly preety good.

Issue 3: I received awards and decorations.

Issue 4: I have been a good citizen since discharge.

Issue 5: My record of NJP's/Article 15's indicates only isolated or minor offenses.

ATCH

1. Letter to the Discharge Review Board.
2. Applicant's Issues.
3. Six Character References.
4. DD Form 214.
5. AF Form 3005.
6. DD Forms 4.
7. AF 3070, Record of Nonjudicial Punishment Proceeding.
8. Medical & Dental Documents.

02/05/08/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 66TH ELECTRONIC COMBAT WING (USAFE)  
APO NEW YORK 09136-5000

FD 2002-0007



REPLY TO  
ATTN OF: JA (Capt [REDACTED], [REDACTED])

2 December 1991

SUBJECT: AFR 39-10 Discharge, [REDACTED], FR [REDACTED], 66 SPS

TO: CV  
CC  
IN TURN

1. I have reviewed the attached case file and find it legally sufficient to support AB [REDACTED] separation for minor disciplinary infractions, AFR 39-10, paragraph 5-46, with a general discharge. The commander, Maj [REDACTED] recommends a general discharge.

2. Evidence for the government:

a. Between 15 December 1990 and 20 September 1991, AB [REDACTED] has received an Article 15 for damage to a government vehicle, and numerous written and verbal reprimands and counselings, for misbehavior ranging from maltreatment of his military working dog to leaving his guard post early without permission.

b. Additional evidence for the government, not detailed in the notification letter, but included as attachments thereto includes verbal counseling for an unacceptable barracks room, being late to work, and failing to bring his dog to guardmount.

3. Evidence for the respondent:

(a) The respondent is 21 years old. He began his initial enlistment on 30 June 1989, with no prior active or inactive service. He has received one EPR. It was an overall two, and was properly referred. He was assigned to the 66 SPS on 28 January 1990.

(b) AB [REDACTED] was properly notified of this action on 19 November 1991. After consulting with military legal counsel, he submitted a statement on his behalf. AB [REDACTED] has written a fairly articulate letter for your consideration. The thrust of it is that he doesn't want to be discharged, but if he is, he wants an honorable service characterization. Specific comments follow:

(1) With respect to his continued retention in service, he cites his potential to perform as evidenced by his training accomplishments in basic and tech school training. Nevertheless, this does not dispel his actual documented work performance, which has fallen far below standards.

(2) His real concern seems to be his service characterization. 'AB [REDACTED] wants to work for the federal government in some capacity involving working dogs, such as a DEA agent. He is concerned that a general discharge will ruin his chances for follow-on employment with a government agency..

Prince is correct; a general discharge will place him at a competitive disadvantage to one with an honorable discharge. However, a properly determined service characterization should in fact characterize one's military service: collateral effects of such a characterization should not cloud the real issue: how should AB [REDACTED] service be characterized?

(3) AB [REDACTED] also addresses the fact that if discharged, he will lose his GI Bill eligibility. This is true, but is driven not by his service characterization, but by his time in service. According to [REDACTED] at the Education Office, one must remain on active duty for 36 months to obtain any GI Bill benefits. AB [REDACTED] will not have 36 months service until June 1992.

4. There are no substantive errors materially prejudicing the rights of the respondent in this matter. However, the following is noted:

a. The notification letter to AB [REDACTED] does not inform him that the separation authority will decide both whether he is to be separated from the Air Force, and decide what his service characterization will be. This is considered to be harmless error because AB [REDACTED] was notified that he was eligible for a general discharge, and that a general discharge was in fact recommended by his commander. Furthermore, his military legal counsel should have discussed that with him.

b. The separation package does not include the underlying documentation for the Article 15. Moreover, it includes as attachments evidence which does not appear in the narrative portion of the notification letter.

c. It is my opinion that neither of the above deficiencies are legally significant. There is overwhelming documentation in this file that is sufficient to justify discharge. The respondent was clearly placed on notice about the evidence used to support the discharge recommendation. However, although this discharge package does not prejudice the respondent, the deficiencies make for a less-than-complete staff package should this matter require further review for any reason.

5. The following merit your specific consideration:

a. You must decide whether AB [REDACTED] should be retained in the Air Force. To that end, you must consider his entire record of service, including the specific reasons cited for his discharge.

b. If you decide to discharge AB [REDACTED], you must next characterize his service. Again, you should consider his entire record in characterizing his service.

(1) Since this is a notification action, AB [REDACTED] may receive only an honorable or general discharge, unless you choose to direct reinitiation of the action and refer the case to an administrative discharge board. An honorable discharge is appropriate when an airman's service has generally met Air Force standards of performance and conduct. General discharge is proper when negative aspects of performance or conduct significantly outweigh positive aspects of the airman's service.

(2) AB [REDACTED] entire record is marginal. It is replete with letters of counseling, reprimand, and an Article 15. His only EPR was a referral EPR. AB [REDACTED] seems unable or unwilling to meet Air Force standards, and has so demonstrated during his entire time at Sembach AB.

c. Finally, you must consider whether to offer AB [REDACTED] probation and rehabilitation (P&R). Probation and rehabilitation is appropriate for airmen who have demonstrated a potential to serve satisfactorily; who have the capacity to be rehabilitated to continued military service; and whose retention on active duty is consistent with the maintenance of good order and discipline. AB [REDACTED] commander has recommended against offering him P&R. I concur. His entire record is one of progressive counseling measures. There is no reason to believe that AB [REDACTED] will respond favorably to P&R, when he has not responded to any lesser measures up to now. In light of this, there is no reason to consider P&R in this case.

6. As the special court martial convening authority in this case, you may (1) retain AB [REDACTED] if you determine that discharge is inappropriate; (2) approve his separation with a general discharge; with or without P&R; or (3) Forward the case to the general court martial convening authority, recommending separation with an honorable discharge;

7. **Recommendation:** I recommend you approve AB [REDACTED] discharge with a general discharge, without probation and rehabilitation, by signing the attached letter.

[REDACTED]  
Lt Col, USAF  
Staff Judge Advocate

2 Atchs  
1. Discharge Letter  
2. Case File



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 66TH COMBAT SUPPORT GROUP (USAF) (USAF)  
APO NEW YORK 09136-5000

FD 2002-0007



REPLY TO  
ATTN OF: SP

19 NOV 1991

SUBJECT: Notification Letter

TO: AB [REDACTED], [REDACTED], FR [REDACTED]

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFR 39-10, paragraph 5-46. If my recommendation is approved, your service will be characterized as general.

2. My reasons for this action are:

a. On 20 Sep 91, you were derelict in duty in that you willfully failed to report a government vehicle accident. You also, through neglect, suffered a government vehicle accident by driving into a wall, causing damage to that military property in the sum of \$401.23. For this offense you received an Art 15 (see atch).

b. On 24 Mar 91, you left your assigned post without being properly relieved. Moreover, you were disrespectful to TSgt [REDACTED] when he was counseling you about leaving your post.

c. On 30 Dec 90, while posted at site five, you were operating a government vehicle off the hardened paved surface. Consequently, you were involved in a vehicle mishap. For this you received an LOR.

d. On or about 16 Dec 90, you failed to maintain control of your military working dog, because you failed to follow instructions. For this you received an LOR and a UIF.

f. On 12 Dec 90, you also failed to follow instructions by leaving your equipment in such a way that it could have caused injury or death to your MWD. For this you received a LOC.

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 discharge or retained in the Air Force, and if you are discharged, you will be ineligible for reenlistment in the Air Force.

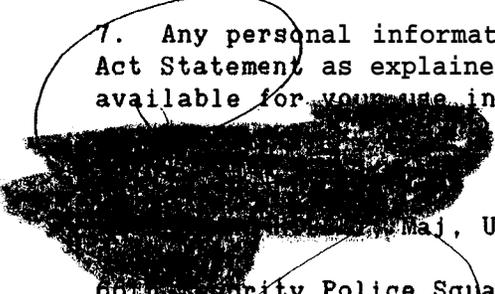
3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult CAPT [REDACTED] Bldg 206, 496-7405 on 20 NOV 91 at 10:00. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three workdays of receipt of this letter 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. You must report to Sembach Clinic at 0815 on 20 Nov 91 for the examination.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 30-10 is available for your use in the orderly room.

 Maj, USAF

60th Security Police Squadron

9 Atch

1. Art 15 dtd 10 Oct 91
2. Memo for Record dtd 24 Mar 91
3. LOR dtd 8 Jan 91
4. Memo for Record dtd 9 Jan 91
5. LOR dtd 26 Dec 90
6. Memo for Record dtd 23 Dec 90
7. Memo for Record dtd 17 Dec 90
8. AF Form 1137 dtd 28 Dec 90
9. LOC dtd 15 Dec 90