

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	DOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A94.53, A67.09, A93.09, A92.37	INDEX NUMBER A67.90	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
		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 RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONAL.

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 RECOMMENDING OFFICER [REDACTED]	SIGNATURE OF BOARD MEMBER [REDACTED]
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INDORSEMENT	DATE: 02-06-19
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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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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0039

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change his reenlistment code.

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 and change of reenlistment code are denied.

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

Issues. Applicant was discharged for misconduct, conduct prejudicial to good order and discipline. He had two Articles 15, and a vacation of suspended punishment. He also had two Letters of Counseling and a Letter of Reprimand. His misconduct included missing an appointment, failure to pay just debts, driving while intoxicated off base resulting a major motor vehicle accident, violating a direct order by driving on base while his driving privileges were revoked for a year, leaving his place of duty, and failing to go to his place of duty. At the time of the discharge, applicant waived his right to consult counsel or submit a statement on his own behalf. Applicant now states he knows what he did was wrong and he regrets it, noting that he resented authority and was not happy with his job. The Board noted that member's first infraction was his DWI, after which he underwent alcohol rehabilitation and was deemed a problem drinker. His base driving privileges were also revoked at that time. More than 8 months after that incident, his other misconduct began and he had five infractions in a 4-month period. The applicant's continued misconduct was of a serious nature and was intolerable. Members who continue to commit such acts are held accountable for their behavior. There is no evidence of record that applicant didn't know right from wrong or was immature. Furthermore, he was of the same age as the majority of first-term airmen who properly adhere to Air Force standards of conduct. No inequity or impropriety was found in this discharge in the course of the records review.

While the Board commends applicant's post-service accomplishments and recognizes that he may have matured since his discharge and now desires to again serve in the military, this information is not relevant to the period of service under review and therefore does not provide a basis for upgrade. This is insufficient grounds to overcome the factors that were the basis for the discharge.

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

[REDACTED]
[REDACTED]

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 89/11/08 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge & To Change RE Code. Disch.

2. **BACKGROUND:**

a. DOB: 67/06/26. Enlmt Age: 18 6/12. Disch Age: 22 4/12. Educ:HS DIPL. AFQT: N/A. A-82, E-76, G-74, M-90. PAFSC: 46150 - Munitions Systems Specialist. DAS: 87/09/24.

b. Prior Sv: (1) AFRes 86/01/12 - 87/05/13 (6 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 87/05/14 for 4 yrs. Svd: 02 Yrs 05 Mo 25 Das, of which AMS is 2 months 3 months 9 days (excludes 2 months 17 days lost time).

b. Grade Status: AB - 89/10/06 (Article 15, 89/10/06)
AMN - 89/06/12 (Article 15, 89/06/12)
A1C - 88/09/14
AMN - (APR Indicates): 87/05/14-88/05/13

c. Time Lost: 88/09/14-88/11/29 (2 months 17 days).

d. Art 15's: (1) 89/10/06, Anderson AFB, Guam - Article You did, on or about 21 Sep 89, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(2) 89/09/28, Vacation, Anderson AFB, Guam - Article 86. You did, on or about 20 Sep 89, without authority, go from your appointed place of duty. Forfeiture of \$150.00 (No appeal) (No mitigation)

(3) 89/06/12, Anderson AFB, Guam - Article 90. You, having received a lawful command from LtCol -----, your superior commissioned officer, then known by you to be your superior commissioned officer, not to operate a motor vehicle on all military reservations or properties under the jurisdiction of the U.S. Air Force, worldwide, and U.S. Naval Forces, Guam, for a one year period effective 15 Sep 88 until 14 Sep 89, or words to that effect, did, on or about 4 Jun 89, willfully disobey the same. Reduction to Amn. Forfeiture of \$150.00 per month for two months

(suspended until 11 Dec 89). (No appeal) (No mitigation)

e. Additional: LOR, 09 DEC 88 - Operating a vehicle while intoxicated.
 LOC, 13 JUN 89 - Failure to pay **just** debts.
 LOC, 27 MAY 89 - Missed appointment.

f. CM: none.

g. Record of SV: 87/05/14 - 88/05/13 Anderson AFB 9 (Annual)
 88/05/14 - 89/05/13 Anderson AFB 2 (Annual)

(Discharged from Anderson AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (02) Yrs (09) **Mos** (11) Das
TAMS: (02) Yrs (03) **Mos** (09) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/01/18.
 (Change Discharge to Honorable & Change the RE Code)

Issue 1: I would like you to review the case of my discharge from the Air Force on November 8th 1989. I received a General (under Honorable Condition). I was having personal problems with myself and with my life in the military and was acting out in a negative way. I resented authority and was not happy with my job. I regret the various actions I did and would go back and change my actions if I could. Hindsight is 20/20 and in this case, my view of my conduct is clear. It was wrong and I regret it. At this time, I would ask you to change my discharge to an honorable. In light of recent events, I attempted to reenlist in the Air National Guard and was denied due to a (2B) Reenlistment code. I feel that I may contribute a great deal to my country at this time. I have completed two years of college and have grown up a great deal. Please allow me the opportunity to contribute.

ATCH

1. Letter to the Discharge Review Board.
2. DD Form 214.

02/05/09/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 633D AIR BASE WING (PACAF)
APO SAN FRANCISCO 96334-5000

FD 302-0039

30 OCT 1989

REPLY TO
ATTN OF:

JA (Capt [REDACTED], 63-2937)

SUBJECT:

Final i AFR 39- Discharge ([REDACTED] FR [REDACTED]
43 I

TO:

CC

1. 43 MMS/CC recommends AB [REDACTED] be discharged from the Air Force for misconduct under AFR 39-10, paragraph 5-47b. I have reviewed AB [REDACTED] attached discharge file and find it legally sufficient for your action. All citations are to AFR 39-10, unless otherwise stated.

2. Background. On 20 Oct 89, 43 MMS/CC initiated this discharge action against AB [REDACTED]. 43 MMS/CC recommended a general discharge without probation and rehabilitation. AB [REDACTED] waived his right to consult with counsel and to submit statements in his behalf.

3. Summary of the Evidence. To support the discharge, the initiating commander cited the following evidence from the case file:

a. On 21 Sep 89, AB [REDACTED] aid, without authority, failed to go to his appointed place of duty. For this, he received Article 15 punishment on 6 Oct 89.

b. On 20 Sep 89, A6 [REDACTED] did, without authority, go from his appointed place of duty. For this, he received a Vacation of Suspended Nonjudicial Punishment on 6 Oct 89.

c. On 4 Jun 89, AB [REDACTED] disobeyed a lawful command from a superior commissioned officer not to drive on any military installation. For this, he received Article 15 punishment on 12 Jun 89.

d. On 13 Jun 89, A6 [REDACTED] failed to satisfy a just debt by being overdue in making a DPP payment. For this, he was counseled on 13 Jun 89.

e. On 25 May 89, A6 [REDACTED] failed to go to a scheduled dental appointment. For this, he was counseled on 27 May 89.

f. On 14 Sep 88, AB [REDACTED] operated a vehicle in Tamuning, Guam, while intoxicated. For this, he received a Letter of Reprimand on 9 Dec 88 and was placed on the Control Roster on 21 Dec 88.

4. Service Characterization. The initiating commander has recommended a general discharge. To determine the appropriateness of this recommendation, we must review Respondent's military record in the current enlistment and apply the guidelines for any restrictions on service characterization found in Chapter 1, Section B.

5. Review of Respondent's Military Record. AB [REDACTED] is 22 years old and is serving on his first term of enlistment which began on 14 May 87.

Respondent is a Bomb Maintenance Crew Member and was assigned to the 43 MS on 24 Sep 87. Respondent has received one APR, the overall rating of which is a "9", and one EPR, the overall rating of which is a "2." The Respondent is entitled to wear the Air Force Training Ribbon.

6. For the Respondent. AB [REDACTED] waived his right to consult with counsel and to submit matters in his own behalf.

7. Analysis of Service Characteriation. 43 MMS/CC recommends a general discharge. Such a characterization is warranted when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record. In this case, AB [REDACTED] received two Article 15 punishments and one Vacation of a Suspended Article 15 punishment. He also received a Letter of Reprimand and two counselings. AB [REDACTED] conduct constitutes a significant negative departure from the standard of conduct required of Air Force members and outweighs the positive aspects of his military record. A general discharge is warranted in this case.

8. Preprocessing Rehabilitation. Paragraph 5-2 states that, "Airmen should, as a rule, be given an opportunity to overcome their deficiencies before discharge action starts." In this case, AB [REDACTED] received two counselings, a Letter of Reprimand, two Article 15 punishments and a Vacation of Suspendea Article 15 punishment. AB [REDACTED] has been given adequate counseling and guidance to correct his behavior. Therefore, this regulatory requirement has been fully satisfied.

9. Eligibility for Probation and Rehabilitation (P&R). The initiating commander does not recommend probation and rehabilitation. AB [REDACTED] has received counseling and guidance to correct his behavior. Despite this guidance, he has not conformed his behavior to minimum standards of Air Force conduct. He flagrantly violated an order not to drive on Andersen AFB, following a DWI incident off-base. He demonstrated contempt for Air Force standards by failing to pay a just debt. He showed an indifferent attitude towards duty performance by failing to attend a dental appointment and by going from and failing to go to his appointed place of duty. Additional P&R opportunities are not warranted.

10. Other considerations.

a. The case file does not contain a Report of Medical Examination (SF88) showing Respondent is qualified for worldwide duty or discharge. This report must be included in the file before discharge can be executed (para 6-11).

b. Federal law permits you to exclude (debar) persons from the base provided the exclusion is not patently arbitrary nor discriminatory. It would not be inappropriate in this case considering the Respondent's varied misconduct to debar him upon separation.

c. Though the Recommendation for Discharge letter is dated 20 Oct 89, it was not delivered to the legal office until 27 Oct 89. However, this does not affect its legal sufficiency.

11. Conclusions. I find:

- a. The reason cited as the basis for discharge in the Letter of Notification is supported by a preponderance of the evidence;
- b. The reason cited in the Letter of Notification is a proper basis of discharge;
- c. The recommendation for a general discharge is appropriate pursuant to the criteria of paragraph 1-18 and the restrictions in paragraph 1-21; and
- d. Although this airman is eligible for P&R under Chapter 7, he should not be afforded P&R opportunities.

12. RECOMMENDATION You should approve discharge of AB [REDACTED] from the Air Force with a general discharge, without an offer of probation and rehabilitation.

[REDACTED]
[REDACTED], Major, USAF
Staff Judge Advocate

1 Atch
Discharge File (AB [REDACTED])



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D BOMBARDMENT WING, HEAVY (SAC)
APO SAN FRANCISCO 96334-5000

FD 2002-8039

REPLY TO
ATTN OF: 43 MMS/CC

20 OCT 1989

SUBJECT: Notification Letter

TO: AB [REDACTED], [REDACTED], 43 MMS

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline. The authority for this action is AFR 39-10, paragraph 5-47b. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 21 Sep 89, you, without authority, failed to go at the time prescribed to your appointed place of duty. For this, you received Article 15 punishment on 6 Oct 89.

b. On 20 Sep 88, you did, without authority, go from your appointed place of duty. For this, you received a Vacation of Suspended Nonjudicial Punishment on 6 Oct 89.

c. On 4 Jun 89, you disobeyed a lawful command from a superior commissioned officer not to drive on any military installation. For this, you received Article 15 punishment on 12 Jun 89.

d. On 14 Sep 88, you operated a vehicle in Tamuning, Guam while intoxicated. For this, you received a Letter of Reprimand on 9 Dec 88 and was placed on the Control Roster on 21 Dec 88.

e. On 13 Jun 89, you failed to satisfy a just debt by being overdue in making a DPP payment. For this, you were counseled on 13 Jun 89.

f. On 25 May 89, you failed to go to a scheduled dental appointment. For this, you were counseled on 27 May 89.

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], Building 21000, 366-2281 at 1400 on 20 OCT 89. 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 0800 25 OCT 89 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 633 Medical Group at 0800 hours on 23 OCT 89 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 39-10 is available for your use in the Unit Orderly Room-

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


Major, USAF
Commander, 43 MMS

7 Atch

1. Art 15, 6 Oct 89
2. AF Form 366, 6 Oct 89
3. Art 15, 12 Jun 89
4. LOR, 9 Dec 88 w/UIF 2 Dec 88
5. MFR, 13 Jun 88
6. MFR, 27 May 80
7. Airman's Acknowledgement