

<b>TYPE GEN</b>		<b>PERSONAL APPEARANCE</b>		<b>X RECORD REVIEW</b>	
<b>COUNSEL</b>		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NO				
	X				

MEMBERS SITTING	VOICE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

<b>ISSUES</b> A94.53, A67.01, A93.19, A01.13		<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
				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, and 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 RECOMMENDING OFFICER: [REDACTED]  
 SIGNATURE OF BOARD PRESIDENT: [REDACTED]

<b>INDORSEMENT</b>		<b>DATE:</b> 02-06-12
<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	

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD2002-0069

**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 the applicant substantiates an inequity or impropriety that would justify a change of the discharge.

Issues. Applicant was discharged for minor disciplinary infractions. He had a Record of Individual Counseling and three Letters of Reprimand. His misconduct included three instances of underage drinking, two instances of failure to go, one instance of speeding and driving recklessly, resulting in an accident, and assault against a civilian. Member had no Enlisted Performance Reports during his period of service. At the time of the discharge, applicant consulted counsel and submitted a statement in his own behalf acknowledging it might have been mutually beneficial to he and the Air Force if he were to separate, but noting that an administrative discharge was not appropriate because he disputed the incidents used as it's basis. At the time of the discharge, the Staff Judge Advocate thoroughly addressed these issues in the legal review that accompanied the discharge package to the decision authority. The Board found the personnel and discharge records indicate member was given adequate opportunity to improve and conform his behavior to Air Force standards and was either unwilling or unable to do so. Therefore, no inequity or impropriety was found in his 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

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

(Former A1C) (HGHA1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 90/07/09 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 69/11/19. Enlmt Age: 18 2/12. Disch Age: 20 7/12. Educ: HS DIPL. AFQT: N/A. A-76, E-61, G-52, M-70. PAFSC: 41151A - Missile Maintenance Specialist. DAS: 89/05/04.

b. Prior Sv: (1) AFRes 88/01/29 - 88/12/06 (10 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 88/12/07 for 4 yrs. Svd: 01 Yrs 07 Mo 03 Das, all AMS

b. Grade Status: A1C - 90/04/07  
 AMN - 89/06/07

c. Time Lost: none.

d. Art 15's: none.

e. Additional: LOR, 16 NOV 89 - Failure to go.  
 LOR, 16 NOV 89 - Dereliction of duty.  
 LOR, 19 MAR 90 - Dereliction of duty.  
 LOR, 25 JUN 90 - Assault and underage drinking.

f. CM: none.

g. Record of SV: none.

(Discharged from Vandenberg AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (02) Yrs (05) Mos (11) Das  
 TAMS: (01) Yrs (07) Mos (03) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/02/11  
 (Change Discharge to Honorable and Change the RE Code)

Issue 1: I'm interested in re-enlisting into the Air Force & I am having difficulties. I have a RE Code of 2B and to re-enlist I need an upgrade RE code

to a 1, also General to Honorable conditions.

ATCH

1. DD Form 149.

02/05/29/ia



HEADQUARTERS  
DEPARTMENT OF THE AIR FORCE  
VANDENBERG AIR FORCE BASE, CALIFORNIA 93437-5000

E



29 JUN 1990

REPLY TO  
ATTN OF

SUBJECT

Legal Review - Administrative Discharge Action - [REDACTED]  
[REDACTED] 394 ICBMTMS

TO CC

1. I have reviewed the attached file pertaining to the proposed discharge action against [REDACTED] 394 ICBMTMS. It is legally --- sufficient to support the proposed discharge.

2. The commander notified [REDACTED] by letter on 25 June 1990 that he was recommending [REDACTED] be discharged from the United States Air Force for minor misconduct, pursuant to AFR 39-10, Section H, paragraph 5-46. The misconduct included a failure to go and two incidents of underage drinking, one of which led to an assault by [REDACTED] on a civilian. Attempts to rehabilitate have included formal and informal counsellings and several letters of reprimand. The commander recommended a general discharge without probation and rehabilitation. The respondent acknowledged receipt of the letter of notification on 25 June 1990.

3. The respondent is not entitled to a board hearing and this case is being processed by the notification procedure in Section B, Chapter 6, AFR 39-10. The respondent was given written notice of the commander's recommendation for discharge, of the reasons for it and of the least favorable type of separation authorized, and given copies of the documents supporting the recommendation for discharge. Further, the respondent was advised of the rights to consult counsel, to submit statements to the separation authority, and to waive either of these rights. The respondent thereafter consulted counsel and submitted a written statement for your consideration.

4. In his written statement, [REDACTED] claims that he never assaulted his sister-in-law, and provides written statements from her and from his wife to support his assertion. Both women claim that he never "struck" his sister-in-law; however, this is not what was alleged. [REDACTED] admitted to his First Sergeant that, during an alcohol-related dispute with his wife, he had shoved his sister-in-law in an effort to get her out of the house. This admission is sufficient to establish the alleged assault; it is not necessary to show that [REDACTED] struck any actual blows. [REDACTED] further claims that he was not speeding through the base housing area, as alleged; however, he was cited and reprimanded for this incident and never chose to refute or respond to the allegations. His claim that "it was not known at the time" that he was speeding is plainly contradicted by the citation issued, which explicitly noted his speed. Although the ticket does not note the use of radar, Security Police patrols are trained in other methods of determining speed, such as pacing the vehicle in question or noting the distance traversed and time elapsed. Finally, [REDACTED] claims that he believes he is not

qualified for world-wide duty because of his knee condition, and is therefore not medically eligible for discharge under AFR 39-10. He was, however, examined by health care professionals at the 1st Strategic Hospital and pronounced ready for world-wide duty by Dr. [REDACTED]

5. The facts documented in the case file substantiate the allegations of minor misconduct. [REDACTED] conduct has been marked by repeated incidents of disruptive behavior that in his commander's opinion jeopardize good order and discipline in the squadron. [REDACTED] has apparently decided not to conform his behavior to Air Force standards; it is precisely this decision that renders him subject to a general discharge. Suspension of the discharge for probation and rehabilitation is not warranted due to failure of prior -- rehabilitative efforts.

6. In accordance with AFR 39-10, paragraphs 5-51 and 6-12, you may as the Special Court-Martial Convening Authority:

- a. Direct retention based on your determination that the evidence is insufficient to support discharge;
- b. Refer the case to 15th AF with a recommendation for honorable service characterization with or without a suspension of discharge for probation and rehabilitation; or
- c. Direct discharge with a general service characterization with or without suspension of the discharge for probation and rehabilitation.

7. I recommend you direct [REDACTED] discharge with a general service characterization and no offer of probation and rehabilitation. A proposed letter for your signature is at Attachment 2.

[REDACTED]  
[REDACTED] Captain, USAF  
Chief, Military Justice

- 2 Atch
- 1. Case File
- 2. Proposed Ltr

I concur.

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



DEPARTMENT OF THE AIR FORCE  
 394TH ICBM TEST MAINTENANCE SQUADRON (SAC)  
 VANDENBERG AIR FORCE BASE, CALIFORNIA 93437-5000



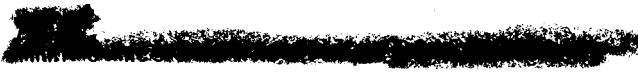
REPLY TO  
 ATTN. OF:

CCQ

25 JUN 1990

SUBJECT:

Letter of Notification



1. I am recommending your discharge from the United States Air Force for minor misconduct. The authority for this action is AFR 39-10, Section H, paragraph 5-46. 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. You did, at or near Vandenberg Air Force Base, California, on or about 1 November 1989, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 5601. By this act you violated Article 86 of the Uniform Code of Military Justice (UCMJ). You received a Letter of Reprimand on 16 November 1989.

b. You who knew of your duties at Vandenberg Air Force Base, California, were, on or about 31 October 1989, derelict in the performance of those duties in that you willfully consumed alcoholic beverages, while under the age of 21 as it was your duty not to do. This violates Article 92 of the UCMJ, you received a Letter of Reprimand on 16 November 1989.

c. You who knew of your duties at Vandenberg Air Force Base, California, on or about 1 March 1990, were derelict in the performance of those duties in that you negligently failed to operate a vehicle in a safe manner, by driving 35 mph in base housing, a 25 mph zone, as it was your duty not to do. A Letter of Reprimand was issued to you on 19 March 1990 for violating Article 92 of the UCMJ.

d. You did, at or near Vandenberg Air Force Base, California, on or about 9 June 1990, assault your sister-in-law by striking her with your hand. You committed this offense under the influence of alcohol, which you then were not of legal age to consume. By these acts, you violated Articles 128 and 92 of the Uniform Code of Military Justice. You received a Letter of Reprimand on 25 June 1990.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. 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 Captain [redacted] Area Defense Counsel, Building 8220, Vandenberg AFB, phone 6-3027 at 1545 on 25 June 1990. You may request that a different military defense counsel represent you, if that counsel is reasonably available as defined by AFR 111-1. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. I will forward your statements to the separation authority. Any statements you want me to forward must reach the Separations Processing Center, Room B-308, Building 10577, Vandenberg AFB, by 28 June 1990 unless you request and receive an extension for good cause shown. You must submit your request for extension to the Separations Processing Center in a timely manner.

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. 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 Separations Processing Center.

7. You must execute the attached acknowledgment and return to me immediately. The acknowledgment does not admit or deny any of the allegations against you, nor does it mean that you agree with the discharge action. It is simply an acknowledgment that you have received this Letter of Notification.

[redacted]  
[redacted]  
[redacted] Capt, USAF  
Commander

- Atch
- 1-LOR, 16 Nov 89.
- 2-LOR, 19 Mar 90.
- 3-LoR, 25 Jun 90.
- 4-Other Info.