

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE SGT	AFSN/SSAN [REDACTED]			
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION				
YES	NO	ADDRESS AND OR ORGANIZATION OF COUNSEL				
	X					
MEMBERS SITTING [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]		VOTE OF THE BOARD				
		HON	GEN	UOHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A95.00		INDEX NUMBER A67.90		EXHIBITS SUBMITTED TO THE BOARD		
HEARING DATE 5 NOV 02		CASE NUMBER FD2002-0191		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	
<p style="font-size: small;">APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.</p> <p>REMARKS Case heard at Washington, D.C.</p> <p>Advise applicant of the decision of the Board, the right to a personal appearance, and the right to submit an application to the AFBCMR.</p>						
SIGNATURE OF RECORDER [REDACTED]			SIGNATURE OF BOARD PRESIDENT [REDACTED]			
INDORSEMENT				DATE: 5 NOV 02		
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			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0191

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. 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 applicant received an Article 15 for being disorderly. He also received four Letters of Reprimand and three letters of Counseling for financial irresponsibility (three times), sleeping on duty, failure to go, causing a domestic disturbance and damage to government property, and reporting for mobility processing without all of his required uniforms. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of 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

(Former SGT) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 90/12/10 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for a Change in Reason and Authority for Disch.

2. **BACKGROUND:**

a. DOB: 65/06/04. Enlmt Age: 19 0/12. Disch Age: 25 6/12. Educ:HS DIPL. AFQT: N/A. A-72, E-14, G-43, M-27. PAFSC: 64550 - Inventory Management Specialist. DAS: 85/04/02.

b. Prior Sv: (1) AFRes 84/04/18 - 84/12/11 (7 months 24 days) (Inactive).

(2) Enlisted as AB 84/12/12 for 4 yrs. Svd: 3 yrs 3 months 23 days, all AMS. AMN - 85/06/12. A1C - 86/04/12. SRA - 87/12/12. APRs: 9,9.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 88/04/05 for 4 yrs. Svd: 02 Yrs 08 Mo 05 Das, all AMS.

b. Grade Status: Sgt - 88/12/01

c. Time Lost: none.

d. Art 15's: (1) 90/10/30, Dover AFB, DE - Article 134. In that you, were, on or about 13 Oct 90, disorderly, which conduct was of a nature to bring discredit upon the Armed Forces. Reprimand and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 30 APR 87 - Sleeping on duty.
VBC, 18 FEB 88 - Failure to meet financial obligations.
LOR, 10 OCT 89 - Failure to go.
LOR, 23 FEB 90 - Causing a domestic disturbance and damage to government property.
LOC, 20 JUL 90 - Reporting for mobility processing without all of required uniforms.
LOR, 20 JUL 90 - Failure to pay just debts.
VBC, 06 AUG 90 - Failure to pay just debts.

f. CM: none.

g. Record of SV: 87/12/12 - 88/05/16 Dover AFB 9 (CRO)
89/05/17 - 89/05/16 Dover AFB 9 (Annual)
89/05/17 - 90/03/31 Dover AFB 3 (HAF Dir)

(Discharged from Dover AFB)

h. Awards & Decs: AFTR, AFGCM, AFLSAR.

i. Stmt of Sv: TMS: (06) Yrs (07) Mos (23) Das
TAMS: (05) Yrs (11) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/04/28.
(Change Discharge to Reason and Authority for Discharge)

Issue 1: From Section 3. I'm not requesting a change in my discharge, I am requesting a removal of statement on my DD 214. Section 28 narrative reason for discharge enclosed is my DD 214 statement is documented all I ask it be removed because this was not a reflection of my work. Those were true back then not now. I believe it is hindering my effects to obtain employment. All assistance in this matter is greatly appreciated.

ATCH

1. DD Form 214.

02/08/14/ia

FD2002-0191



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS TWENTY-FIRST AIR FORCE (MAC)
MC GUIRE AIR FORCE BASE, NJ 08641-5002

29 NOV 1990

REPLY TO
ATTN OF:

JA [REDACTED]

SUBJECT:

Conditional Waiver - AFR 39-10 Discharge Action - [REDACTED]
[REDACTED] 436 SUPS, Dover AFB DE

TO CC

1. This case is before you for your action as the separation authority under AFR 39-10, para 5-51. On 16 Nov 90 the 436 SUPS/CCQ initiated administrative discharge action against the respondent under AFR 39-10, para 5-47b, a pattern of misconduct. The section commander recommended separation from the Air Force with an under than honorable conditions discharge without probation and rehabilitation (P&R). On 17 Nov 90 the respondent submitted a waiver of his right to a board hearing, contingent upon his receipt of no less than a general discharge. On 27 Nov 90 the special court-martial convening authority, 436 CSG/CC, recommended acceptance of respondent's conditional waiver and that he be discharged with a general discharge without P&R. You have the following options:

- a. Retain the respondent in the Air Force; or
- b. Reject the conditional waiver, in which case processing will continue according to AFR 39-10; or
- c. Accept respondent's conditional waiver and order that the respondent be discharged for misconduct with an honorable or general discharge, with or without P&R.

2. Facts:

a. Personal Data: [REDACTED] is 25 years old. His current enlistment began on 5 Apr 88 and he has 6 years of active military service. His APRs have been rated 9, 9, 9, 9, 9 and he has an EPR rated 3. He is entitled to wear the Air Force Good Conduct Medal, the Air Force Training Ribbon, and the Air Force Longevity Service Award.

b. For the Government: A preponderance of the evidence has established that the following events occurred during the respondent's current enlistment. This information may be considered to determine whether the respondent is subject to discharge, whether he should be discharged, and if discharged, the character of discharge. The respondent has the following record of misconduct:

<u>Date</u>	<u>Incident</u>	<u>Action</u>
13 Oct 90	Disorderly in Station	Article 15
6 Aug 90	Overdue NCO Club Debt	Verbal Counseling
20 Jul 90	Failure to Pay Debt	Letter of Reprimand
21 Jun 90	Reported to Mobility Processing Unprepared	Letter of Counseling
19 Feb 90	Domestic Disturbance and Damaging Base Housing	Letter of Reprimand
3 Oct 89	Failure to Go	Letter of Reprimand

A preponderance of the evidence has also established the following events which occurred prior to the respondent's current enlistment. This information may be considered to determine whether he should be discharged if the above information is determined to render the respondent subject to discharge. It may not be used to determine character of discharge.

<u>Date</u>	<u>Incident</u>	<u>Action</u>
29 Mar 88	Failure to Pay Debt	Verbal Counseling
17 Feb 88	Failure to Pay Debt	Verbal Counseling
26 Apr 87	Sleeping on Duty	Letter of Reprimand

c. For the Respondent: Respondent has not submitted matters for your consideration. He is entitled but not required to do so.

3. Errors and Irregularities: The letter of notification to the respondent includes as a reason for the discharge the three events described above which occurred prior to his current enlistment. Only matters in the current enlistment may form the basis for discharge unless the unit commander did not know of the matters before the reenlistment. The special court-martial convening authority was aware of the irregularity and explicitly based his decision on proper matters. This irregularity will cause no prejudice to the rights of the respondent if your decisions in this case are made in accordance with the rules stated in paragraph 2 above. In addition, Sgt Walker indicated in his letter acknowledging receipt of notification of this action that he would be subject to discharge with an honorable discharge as a result of the action. He was in fact subject to receiving an under other than honorable conditions discharge. However, his offer of a conditional waiver makes it clear that he understood correctly what he was subject to. The case has otherwise been processed in compliance with AFR 39-10 and is legally sufficient to support the discharge of the respondent.

4. Recommendation: The evidence in this case establishes a basis for discharge for misconduct under para 5-47b. I recommend that you accept [REDACTED] conditional waiver and order him discharged for a pattern of misconduct under para 5-47b with a general discharge without P&R.

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

2 Atch

1. Proposed 21 AF/CC Ltr
2. Case File



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 436TH COMBAT SUPPORT GROUP (MAC)
DOVER AIR FORCE BASE, DELAWARE 19902



REPLY TO: JA
ATTN OF:

SUBJECT: Legal Review of AFR 39-10 Discharge,
[REDACTED]

TO: CC

1. BASIS FOR ACTION: This discharge action was initiated against [REDACTED] under AFR 39-10, paragraph 5-47b, for a pattern of misconduct, specifically, conduct prejudicial to good order and discipline. I have reviewed the file and find it legally sufficient to support the respondent's discharge.

2. BACKGROUND INFORMATION: Respondent enlisted in the Air Force on 18 April 1984 under the delayed enlistment program and came on active duty on 12 December 1984. His current four-year enlistment started on 5 April 1988. He has been assigned to the 436th SUPS since 2 April 1985. [REDACTED] has received five APRs, all rated as overall nine and one EPR rated as an overall three. He is entitled to wear the Air Force Training Ribbon, the Air Force Longevity Service Award Ribbon, and the Air Force Good Conduct Medal. Respondent was notified of his commander's recommendation for discharge on 16 November 1990. In that notification letter, he was correctly informed that the worst type of discharge he could receive was an under other than honorable conditions discharge (UOTHC). When he acknowledged receipt of the notification letter, he incorrectly stated that the worst type of discharge he could receive was an honorable discharge. On 17 November 1990, respondent consulted counsel and submitted a waiver of his right to an administrative discharge board hearing conditioned on his receiving not less than a general discharge. Thus, it is obvious [REDACTED] correctly understands he could receive a UOTHC discharge as a result of this action.

3. EVIDENCE: Respondent has been in and out of trouble during his current enlistment. On 3 October 1989, he was late to work and received a letter of reprimand (LOR). On 19 February 1990, [REDACTED] was involved in a domestic disturbance which resulted in his kicking a hole in a bedroom door of his base quarters. He was given a LOR on 23 February 1990. On 21 June 1990, [REDACTED] reported to mobility processing without having all of his uniforms. He was given a letter of counselling for this incident. On 20 July 1990, respondent's commander was informed that [REDACTED] had failed to pay \$1,281.15 to a creditor. Because respondent had failed to pay this debt, he was given a LOR. On 14 August 1990, respondent was verbally counseled for allowing his Enlisted

Club Account to become over 60 days past due. On 13 October 1990, [REDACTED] was disorderly. He received an Article 15 and as a punishment was given 14 days extra duties and a reprimand. During [REDACTED] initial enlistment, he was given one LOR for sleeping on duty and was verbally counselled on two occasions for failure to meet his financial obligations. You can consider the misconduct from his prior enlistment only in making your decision as to whether respondent should or should not be discharged. However, you may not consider it to determine the type of discharge he should receive, if you decide respondent should be discharged.

4. DISCUSSION: As the convening authority, you can recommend acceptance of respondent's conditional waiver with either an honorable or general discharge, with or without probation and rehabilitation, and forward the case to 21 AF/CC for final action. You can also reject the respondent's waiver and inform him that he must submit an unconditional waiver or request a board hearing. Finally, you can disapprove this action and retain the respondent. The respondent's commander originally recommended that he be discharged with a UOTHC discharge. However, the commander now supports the respondent's waiver and believes a general discharge would be appropriate. I agree with her recommendation. The record of misconduct in respondent's current enlistment clearly supports discharge under paragraph 5-47b and characterization of his service as general. In addition, it is unlikely an administrative discharge board would recommend respondent receive a UOTHC discharge. Therefore, I believe acceptance of his conditional waiver is in the best interest of the Air Force. Based upon respondent's repeated infractions and disinterest in maintaining Air Force standards, I believe probation and rehabilitation are inappropriate and should not be offered.

5. RECOMMENDATION: I recommend that you support [REDACTED] conditional waiver and that he receive a general discharge without probation and rehabilitation. If you concur, please sign the attached letter and forward the file to 21 AF/CC for further processing.

[REDACTED], Major, USAF
Staff Judge Advocate

1 Atch
Proposed Action



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 436TH COMBAT SUPPORT GROUP (MAC)
DOVER AIR FORCE BASE, DELAWARE 19902



REPLY TO
ATTN OF: 436 SUPS/CCQ

16 November 1990

SUBJECT: Notification Letter-Board Hearing

TO: [REDACTED]

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct, specifically Conduct Prejudicial to Good Order and Discipline, according to AFR 39-10, under the provisions of paragraph 5-47b. 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 26 April 1987, you were sleeping while on duty, for which you received a Letter of Reprimand (LOR), dated 30 April 1987. (Atch 1)
 - b. On or about 17 February 1988, you failed to meet your financial obligations concerning a promissory note, for which you received verbal counselling, dated 18 February 1988. (Atch 2)
 - c. On or about 29 March 1988, you failed to pay a just debt, for which you received verbal counselling, (Atch 3)
 - d. On or about 3 October 1989, you failed to report to your place of duty on time, for which you received an LOR, dated 10 October 1989. (Atch 4)
 - e. On or about 19 February 1990, you caused a domestic disturbance and damage to government property by kicking holes in the walls of your house, for which you received an LOR, dated 23 February 1990. (Atch 5)
 - f. On or about 21 June 1990, you reported for mobility processing without having all of your uniforms, for which you received a Letter of Counselling (LOC) dated 20 July 1990. (Atch 6)
 - g. On or about 20 July 1990, your commander received a letter from the Rent-A-Wreck company notifying her that you had an outstanding debt with them, totalling \$1281.15, for which you received a LOR, dated 20 July 1990. (Atch 7)
 - h. On or about 6 August 1990, your account at the Enlisted Club was over sixty days past due, for which you received verbal counselling, dated 6 August 1990. (Atch 8)
 - i. On or about 13 October 1990, you displayed disorderly conduct which was of such a nature it brought discredit upon the Armed Forces. For this action you received an Article 15 dated 30 October 1990. (Atch 9)

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 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.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.


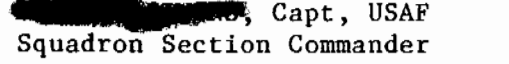
5. You have been scheduled for a medical examination. You reported to the Dover Air Force Base Hospital, at 0730 hours on 26 October 1990.

6. Military legal counsel, [REDACTED], building 447, room 214, phone number 6693, has been obtained to assist you. An appointment has been scheduled for you to consult her on 16 November 1990, 1600 hours in building 447, room 214. 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.

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 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 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 which is located in building

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


 Capt, USAF
Squadron Section Commander

9 Atchs

1. LOR, dated 30 April 1987
2. MFR, dated 18 February 1988
3. Court Order dated 9 February 1988 w/atc
4. LOR, dated 10 October 1989
5. LOR, dated 23 February 1990
6. LOC, dated 20 July 1990
7. LOR, dated 20 July 1990
8. SSF FL-8, dated 6 August 1990
9. AF FM 3070, date 30 October 1990