

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE <b>AB</b>	AFSN/SSAN
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TYPE	<b>PERSONAL APPEARANCE</b>	<b>X RECORD REVIEW</b>
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">YES</td> <td style="width: 50%; padding: 2px;">NO</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td> </tr> </table>	YES	NO	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
YES	NO					
<input type="checkbox"/>	<input checked="" type="checkbox"/>					

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES <b>A94.53</b>	INDEX NUMBER <b>A67.10</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 2px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 20px; text-align: center; padding: 2px;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center; padding: 2px;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center; padding: 2px;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center; padding: 2px;">4</td> <td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 2px;">TAP RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </tbody> </table>	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		TAP RECORDING OF PERSONAL APPEARANCE HEARING
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HEARING DATE <b>4 OCT 02</b>	CASE NUMBER <b>FD2002-0199</b>																	

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.

ENDORSEMENT	DATE: <b>4 OCT 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

FD02-0199

**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 does not contest the discharge; he wants an upgrade for employment purposes. 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 indicate the applicant received an Article 15 for failure to go on two consecutive days; two Letters of Reprimand for failure to go and disobeying lawful orders, and a Memorandum For Record for missing appointments. 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) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/02/13 UP - AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 70/02/20. Enlmt Age: 20 3/12. Disch Age: 21 11/12. Educ:HS DIPL. AFQT: N/A. A-28, E-61, G-62, M-69. PAFSC: 81130 - Apprentice Security Specialist. DAS: 91/08/05.

b. Prior Sv: (1) AFRes 90/06/14 - 91/04/01 (9 months 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 91/04/02 for 4 yrs. Svd: 00 Yrs 10 Mo 12 Das, all AMS.

b. Grade Status: AB - 92/01/22 (Article 15, 92/01/22)  
AMN - 91/10/02

c. Time Lost: none.

d. Art 15's: (1) 92/01/22, Malmstrom AFB, MT - You, did, on or about 7 Jan 92, without authority, fail to go at the time prescribed to your appointed place of duty. Further, you did, on or about 8 Jan 92, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB, and forfeiture of \$100.00 pay. (No appeal) (No mitigation)

e. Additional: LOR, 30 DEC 91 - Disobeying lawful orders.  
LOR, 20 OCT 91 - Failure to go.  
MFR, 17 JAN 92 - Missed Appointments.

f. CM: none.

g. Record of SV: none.

(Discharged from Malmstrom AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (08) Mos (00) Das  
TAMS: (00) Yrs (10) Mos (12) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/05/07.  
(Change Discharge to Honorable)

Issue 1: I ask this upgrade for employment purposes.

**ATCH**

1. DD Forms 214 (Member 1&4).

02/08/16/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 301ST AIR REFUELING WING (SAC)  
MALMSTROM AIR FORCE BASE, MONTANA 59402-5000

FD 2002-0199



REPLY TO  
ATTN. OF:

JA

6 FEB 1992

SUBJECT:

Legal Review, Administrative Discharge Action (AB [REDACTED])  
FR [REDACTED]

TO:

CC

1. ACTION: Administrative discharge action was initiated on 30 Jan 92 against AB [REDACTED] (the Respondent) under the provisions of AFR 39-10, Chapter 5, Section H, paragraph 5-46, for Minor Disciplinary Infractions. Under paragraph 6-2b, AFR 39-10, the Respondent is not entitled to a board hearing. Maj [REDACTED] 341 MSS/CC, has recommended a General discharge without probation and rehabilitation.

2. PERSONAL DATA:

- a. Date and Term of Current Enlistment: 2 Apr 91, 4 Years
- b. Age: 21
- c. Pay Date: 2 Apr 91
- d. TAFMSD: 2 Apr 91
- e. Overall Ratings on Performance Reports: None

(See 27 Jan 92 informal evaluation at Atch 6 to Tab 3)

3. EVIDENCE FOR THE GOVERNMENT: The following provides the basis for discharge, and may be considered on the issues of retention and service characterization.

a. On or about 7 Jan 92, the Respondent failed to go at the time prescribed to his appointed place of duty. Further, on or about 8 Jan 92, the Respondent failed to go at the time prescribed to his appointed place of duty. For this misconduct, the Respondent received an Article 15 on 23 Jan 92, which resulted in a reduction in grade from Amn to AB and forfeiture of \$100.00 pay.

b. On 5 Dec 91, the Respondent was instructed by his Flight Sergeant/SPOD that, while he was suspended under the Personal Reliability Program (PRP), he would be assigned to the operations section for duty purposes. The Respondent was further instructed that his duty hours would be from 0730 to 1630, and that he would spend that time in the Unit Learning Center (ULC). When the Respondent did not comply with those instructions, he was issued a lawful order that he would report to the ULC Monday thru Friday from 0730 to 1630 hours. The Respondent was also instructed to ensure

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that he signed in each time he went to the ULC. As of 30 Dec 91, neither of those orders had been complied with. For this misconduct, the Respondent received a Letter of Reprimand (LOR) on 30 Dec 91.

c. On 15 Oct 91, the Respondent notified his Flight Sergeant/SPOD along with two other noncommissioned officers (NCO's), that he had an appointment on 17 Oct 91 at 0800 hours. On 16 Oct 91, the Respondent notified one of the NCO's of another appointment on 17 Oct 91 at 1530 hours. On both occasions the Respondent was instructed to be at building 500 on 17 Oct 91 at 0730 hours for guardmount and if manning permitted, he would be released for the appointments. On 17 Oct 91, the Respondent failed to report. He failed to contact his Flight Sergeant/SPOD or anyone in his chain of command as to why he was not present until 1640 hours. For this misconduct, the Respondent received an LOR on 20 Oct 91.

4. EVIDENCE FOR THE RESPONDENT: The Respondent did consult with military counsel. Further, he waived his right to submit statements in his own behalf for your consideration (Atch 4 to Tab 3).

5. OPTIONS:

a. Disapprove the discharge action and direct the Respondent be retained in the United States Air Force.

b. Recommend the Respondent be discharged with an Honorable discharge with, or without, probation and rehabilitation. If you determine this to be the proper disposition of this case, you should make that recommendation and forward the file to 15 AF/CC for approval.

c. Approve the discharge and direct the Respondent be discharged for Minor Disciplinary Infractions under the provisions of AFR 39-10, Chapter 5, Section H, paragraph 5-46, with a General discharge with, or without, probation and rehabilitation.

d. Recommend the Respondent be discharged with an Under Other Than Honorable Conditions discharge with, or without, probation and rehabilitation. If you determine that this is the appropriate disposition of this case, you should return the file for discharge board processing.

6. DISCUSSION: The file is legally sufficient to support Maj [redacted] recommendation. AB [redacted] has engaged in repeated acts of misconduct. By engaging in these acts of misconduct, he has failed to maintain Air Force standards. AB [redacted] did not submit statements for your consideration. Maj [redacted] does not recommend probation and rehabilitation. The squadron has attempted unsuccessfully to rehabilitate AB [redacted]. In view of the Respondent's poor attitude, it is clear that further probation and rehabilitation is inappropriate in this case. It appears that a General discharge without probation and rehabilitation is in the best interests of the Air Force. A General service characterization

is appropriate as there have been significant negative aspects of AB [redacted] performance that outweigh the positive aspects. There are no errors or deficiencies which would affect the legal sufficiency of the recommended action.

7. RECOMMENDATION: That you approve the discharge as recommended by Maj [redacted] under the provisions of AFR 39-10, Chapter 5, Section H, paragraph 5-46, for Minor Disciplinary Infractions with a General discharge without probation and rehabilitation.

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

1 Atch  
Case File (AB [redacted])

FD2002-0199



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 341ST MISSILE WING (SAC)  
MALMSTROM AIR FORCE BASE, MONTANA 59402-5000

REPLY TO  
ATTN OF: 341 MSS/CC

30 Jan 92

SUBJECT: Notification Letter

TO: AB [REDACTED], FR [REDACTED], 341 MSS

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. I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. On or about 7 Jan 92, you did, at Malmstrom Air Force Base, Montana, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 500. Further, on or about 8 Jan 92, you did, at Malmstrom Air Force Base, Montana, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 500. For this misconduct, you received an Article 15 on 23 Jan 92, which resulted in a reduction in grade from Amn to AB and forfeiture of \$100.00 pay.

b. On 5 Dec 91, you were instructed by your Flight Sergeant/SPOD, that while you were suspended under the Personal Reliability Program (PRP) that you would be assigned to the operation section for duty purpose. You were further instructed that your duty hours would be from 0730 to 1630, and that you would spend that time in the Unit Learning Center (ULC). You however did not comply with those instructions, you were issued a lawful order that you would report to the ULC Monday thru Friday from 0730 to 1630 hours. You were also instructed to insure that you signed in each time you went to the ULC. As of 30 Dec 91, neither of those orders had been complied with. For this misconduct, you received a Letter of Reprimand (LOR) on 30 Dec 91.

c. On 15 Oct 91, you notified your Flight Sergeant/SPOD along with two other noncommissioned officers (NCO's), that you had an appointment on 17 Oct 91, at 0800 hours. On 16 Oct 91, you notified one of the NCO's of another appointment on 17 Oct 91, at 1530 hours. On both occasions you were instructed to be at building 500 on 17 Oct 91, at 0730 hours for guardmount and if manning permitted, you would be released for the appointments. On 17 Oct 91, you failed to report. You failed to contact your Flight Sergeant/SPOD or anyone in your chain of command as to why you were not present until 1640 hours. For this misconduct, you received an LOR on 20 Oct 91.



3. You have the right to counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel at Bldg 2050 on 31 JAN 92 at 0830 hours. 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 4 Feb 92 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 must receive a medical examination. You are scheduled for an examination at the 301 Aerospace Medical Squadron at 0730, on 3 Feb 92.

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 at the 341 MSS Orderly Room.

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

  
Commander May, USAF

3 Atchs

1. Supporting documents for the reasons for discharge:
  - a. Article 15, 23 Jan 92
  - b. LOR, 30 Dec 91
  - c. LOR, 20 Oct 91
2. Documents with derogatory information which are not listed in the notification Ltr:
3. Airman's receipt of Notification Ltr