

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]	<b>GRADE</b> SRA	<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>COUNSEL</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><b>YES</b></td> <td style="width: 50%;"><b>NO</b></td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>	<b>YES</b>	<b>NO</b>		X		
<b>YES</b>	<b>NO</b>					
	X					

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

<b>ISSUES</b> A92.21; A93.01	<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> 22 Nov 02	<b>CASE NUMBER</b> FD2002-0250	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>INDORSEMENT</b>	<b>DATE: 22 Nov 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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<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</b>	<b>CASE NUMBER</b> FD2002-0250
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**GENERAL:** The applicant appeals for upgrade of discharge to Honorable, change of reason for discharge, and change of reenlistment eligibility (RE) code.

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 the evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

The applicant's issues are listed in the attached brief.

**ISSUE.** The applicant's issue pertains to his post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

**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, 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]

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 90/04/20 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 66/06/06. Enlmt Age: 17 10/12. Disch Age: 23 10/12. Educ: HS DIPL. AFQT: N/A. A-56, E-62, G-80, M-68. PAFSC: 27152 - Operations Resource Management Specialist. DAS: 87/12/12.

b. Prior Sv: (1) AFRes 84/05/04 - 84/08/12 (3 months 9 days) (Inactive).

(2) Enlisted as AB 84/08/13 for 4 yrs. Svd: 3 yrs 7 months 5 days, all AMS. AMN - 85/02/13. A1C - 85/11/13. SRA - 87/08/13. APRs: 8,7,7,9.

3. **SERVICE UNDER REVIEW:**

a. Renlisted as SRA 88/03/18 for 4 yrs. Svd: 02 Yrs 01 Mo 02 Das, all AMS.

b. Grade Status: SRA - 90/03/13 (Vacation of NCO status)  
Sgt - 90/01/22 (Reappointment to NCO status)  
SRA - 89/04/26 (Vacation of NCO status)  
Sgt - Unknown.

c. Time Lost: None.

d. Art 15's: (1) 89/05/03, Kirtland AFB, NM - Article 92. You did, on or about 9 Apr 89, violate a lawful general regulation, to wit: Kirtland AFB Supplement 1, paragraph 2c, AFR 125-26, dated 15 Sep 81, by wrongfully carrying a firearm. Article 128. You did, on or about 9 Apr 89, assault Sgt -----, by coming at him with a firearm and saying to him, "I'm ready for you now" or words to that effect. Suspended reduction to A1C, and 30 days correctional custody. (No appeal) (No mitigation)

(2) 86/05/21, RAF Mildenhall, UK - Article 108. You, did, on or about 9 May 86, without proper authority, willfully damage by painting the words "I hate this fucking place" on the top and back of a tool box, military property of the United States, the amount of said damage being in the sum of less than \$100.00. Suspended reduction to AB, and 30 days correctional custody. (No appeal) (No mitigation)

- e. Additional: LOR, 13 MAR 90 - Failure to comply with a lawful order or directive by playing excessively loud music in the dormitory.  
RIC, 09 NOV 89 - Late for work.  
RIC, 29 JUN 89 - Poor judgement.  
LOC, 13 MAR 89 - Failure to go.  
RIC, 22 AUG 88 - Improper parking and negative attitude towards the Security Police.

f. CM: None.

- g. Record of SV: 87/12/12 - 88/05/14 Kirtland AFB 9 (CRO)  
88/05/15 - 89/05/14 Kirtland AFB 8 (Annual)  
89/05/15 - 90/03/10 Kirtland AFB 2 (CRO)

(Discharged from Kirtland AFB)

h. Awards & Decs: AFTR, AFOSLTR, AFLSAR, AFOUA.

- i. Stmt of Sv: TMS: (05) Yrs (11) Mos (17) Das  
TAMS: (05) Yrs (08) Mos (08) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/05/31.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Character Reference.

02/09/18/ia

May 31, 2002

FD 2002-0250

To Whom it may concern,

I am writing this letter as an attachment to my request for my discharge to be upgraded. My intent is to give a first hand indication of my acknowledgement that I am fully aware of past error in judgment and the change that has occurred in myself since the incidents that lead to my untimely discharge. The following will be a brief account of my recollection of the events that lead to discharge and personal growth factors to be considered.

My professional career in the United States Air Force was on a path to be above average. It started by me graduating in the top 10% of my technical training class. I successfully obtain promotion on 1<sup>st</sup> PFE testing for E-5. I also graduated in top 10% of leadership training graduating class. In my last assignment, on a daily basis, I was independently responsible for greeting and interacting with military & civilian VIP's. By no means is this an attempt to claim my career to be stellar. It is simply to give recognition to some positive aspects of my military tenure.

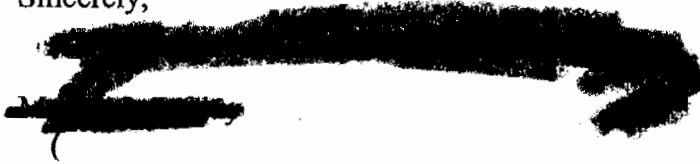
In addressing the discharge, I was officially discharged under "Other than honorable condition". The final incident was based on an "off-duty" disagreement with a dorm mate. This incident at no point involved any physical altercations. All of the minor infractions that led to my discharge were never of a physical or destructive nature. In fact in hindsight the basis for each of the situations was my personal attitude. My immaturity led me to believe at the time that I was right and justified in my actions. My degree of intelligence gave me false sense of security and confidence, which at the time hampered a mature responsible response.

In the days, months and years that have come to past since my discharge I have developed and learned from past mistakes. I am currently pursuing both my B.A. in Info Systems and my MCSE certifications. I regularly volunteer at Lied Dining Hall for the homeless. Currently employed in Internet tech support. So as you can see I am currently and have been since my discharge a productive individual of my community. At this time I am currently attempting to progress and move forward. Therefore, this is a plea to provide me with the needed tools to create a secure future for my family.

As I have come to learn hindsight is part of maturing. I can see and admit the actions I took were directly responsible for my discharge. I understand that the benefits provided to me by the United States Air Force were a privilege. I am requesting that my discharge be upgrade from "under other than honorable" to "honorable."

Thank you for your time and consideration. I look forward to hearing from you in the near future.

Sincerely,



FDZ002-0250



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 1606TH AIR BASE WING (MAC)  
KIRTLAND AIR FORCE BASE, NEW MEXICO 87117-5000

REPLY TO: JA [REDACTED]  
ATTN OF: [REDACTED]

4 April 1990

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

TO: 1606 ABW/CC

1. Pursuant to AFR 39-10, paragraph 6-12a, I have reviewed the subject case file and find it to be legally sufficient.

2. Facts:

a. On 22 March 1990 the Respondent's Commander initiated administrative separation proceedings against him under the provisions of AFR 39-10, paragraph 5-46, for minor disciplinary infractions. The reasons for this discharge are as stated in paragraph 2 of the notification letter dated 22 March 1990.

b. The Commander recommended a General Discharge Certificate without the opportunity for probation and rehabilitation.

c. The Respondent's unit attempted to rehabilitate him with numerous counselings, a letter of reprimand and Article 15 punishment.

d. The Respondent saw military counsel on 27 March 1990 and elected to submit statements in his own behalf. By letter dated 29 March 1990 the Respondent states that he believes he is an asset to his unit and that he has the qualities necessary to be a productive NCO. The Respondent also states that he has made an attempt, but is sure he can correct his off-duty conduct as he has a strong desire to have an Air Force Career. Respondent also submitted statements from friends and co-workers attesting to his excellent on-the-job performance.

e. The Respondent has served in the Air Force for 5 years 11 months, is medically fit and qualified for worldwide duty, and has no court-martial convictions and one punishment under Article 15 of the UCMJ.

3. Law/Regulation

a. According to AFR 39-10, paragraph 5-46, an airman is subject to discharge if he engages in a pattern of misconduct consisting solely of minor disciplinary infractions. The infractions contemplated under this section may involve failure

to comply with nonpunitive regulations or minor offenses under the UCMJ. Infractions of this type result, as a rule, in informal (reduced to writing) or formal counselings, letters of reprimand, or Article 15 nonjudicial punishment.

b. The Respondent is not entitled to a board hearing. His unit may discharge him by complying with the notification provisions of AFR 39-10, Chapter 6, Section B. The unit commander may recommend probation and rehabilitation pursuant to the provisions of AFR 39-10, Chapter 7.

c. Because the unit commander has recommended a General Discharge Certificate, you, as the special court-martial convening authority, are the separation authority in this case. AFR 39-10, paragraph 5-51.

4. Legal Opinion: The unit's recommendation for discharge is procedurally correct and factually sufficient to support the Respondent's discharge from the Air Force with a General Discharge Certificate without the opportunity for probation and rehabilitation.


5. Options: You may do one of the following:

a. Recommend to the 23d AF Commander that the Respondent be discharged with an Honorable Discharge Certificate, with or without the opportunity for probation and rehabilitation;

b. Direct that the Respondent be discharged with a General Discharge Certificate, with or without the opportunity for probation and rehabilitation; or


c. Direct that the Respondent be retained in the Air Force.

6. Recommendation: I recommend that you direct the Respondent be discharged from the Air Force with a General Discharge Certificate, without the opportunity for probation and rehabilitation.

  
 Capt, USAF  
 Asst Staff Judge Advocate

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I concur with the comments and recommendation herein.

  
 Major, USAF  
 Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE  
1550TH FLYING TRAINING SQUADRON (MAC)  
KIRTLAND AIR FORCE BASE, NEW MEXICO 87117-5004

REPLY TO  
ATTN OF CC

22 Mar 90

SUBJECT Notification Letter

TO [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 honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 9 March 90 you failed to comply with a lawful order or directive by playing excessively loud music in dorm 925. This act was a violation of Article 92 of the UCMJ and as a result you were given a letter of reprimand.

b. You did, on or about 9 Nov 1989, fail to report to your appointed place of duty on time, for which you received a record of individual counseling.

c. You did, on or about 29 Jun 1989, use poor judgement for not reporting a set of lost master keys sooner and by using those keys to unlock [REDACTED] dorm door, for which you received a record of individual counseling.

d. On 9 Apr 89 you assaulted [REDACTED] by coming at him with a firearm and saying to him "I'm ready for you now," or words to that effect. This action was a violation of a lawful general regulation, to wit: Kirtland AFB Supplement 1, Paragraph 2C, AFR 125-26, dated 15 Sep 81 as a result you were given an Article 15.

e. You did, on or about 13 March 89, fail to report to your appointed place of duty, for which you received a letter of counseling.

f. You did, on or about 22 Aug 88 park your vehicle improperly and showed a negative attitude toward the security policeman, for which you received a record of individual counseling.

3. 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 discharged or retained in the Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. 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. Waldron at Bldg. 20360 on 27 Mar 90 at 0930 hrs. You may consult civilian counsel at your own expense.

H/tch 1



5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 3 workdays unless you request and receive an extension for good cause shown. I will send them to the separation authority.

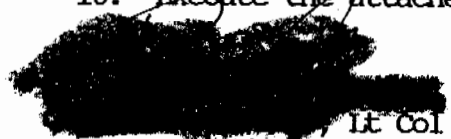
6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to Kirtland AFB Hospital Flight Medicine at 0730 hrs on 26 Mar 90 for the examination.

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 admin office of the 1550th FTS.

9. In accordance with AFR 35-9, paragraph 1-16b(3), you may request indefinite excess leave while you are awaiting completion of AFR 39-10 action. You should be aware that periods of excess leave are without pay and allowances, and that leave does not accrue during periods of excess leave. You should also be aware that, if you are disabled while on excess leave, you are not eligible to receive disability retirement pay or disability severance pay (AFR 35-4). If you wish to apply for excess leave contact the First Sergeant.

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

  
Lt Col  
Commander

2 Atch

1. Supporting Documents for the reason for discharge
  - a. IOR, dated 13 Mar 90
  - b. AF Form 174, dated 9 Nov 89
  - c. AF Form 174, dated 29 Jun 89
  - d. AF Form 3070, dated 3 May 89
  - e. IOC, dated 13 Mar 89
  - f. AF Form 174, dated 22 Aug 88
2. Airman's receipt of notification letter