

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

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

<b>MEMBERS SITTING</b>	<b>VOTE OF THE BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

<b>ISSUES</b> A92.37, A94.05, 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
		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
<b>HEARING DATE</b> 02-11-15	<b>CASE NUMBER</b> FD2002-0270		

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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 and the right to submit an application to the AFBCMR.**

<b>SIGNATURE OF RECORDER</b> [REDACTED]	<b>SIGNATURE OF BOARD PRESIDENT</b> [REDACTED]
<b>INDORSEMENT</b>	<b>DATE: 02-11-15</b>

<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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**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

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 is 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 minor disciplinary infractions. He had at least one verbal counseling, four Records of Individual Counseling, two Letters of Reprimand, two Articles 15, an Unfavorable Information File, and Control Roster action. His misconduct included six instances of failure to go, sleeping on duty, and driving while intoxicated. At the time of the discharge, member consulted counsel and submitted a statement in his own behalf requesting probation and rehabilitation, and submitted three character references. The commander's letter recommending discharge noted that all attempts to rehabilitate member were unsuccessful, and retention would not be consistent with maintenance of good order and discipline. Member now infers the discharge was too harsh because he should not have to "continue to suffer" as a result of mistakes he made due to "youth and immaturity," although with the exception of one incident he denies, he admits what he did was wrong and has no excuse for his behavior. Member requests clemency. The Board noted member had nine incidents in a 13-month period, thus clearly establishing a pattern. The Board further noted that member was the same age as other airmen who adhere to the standards when his misconduct occurred, and he knew right from wrong. He was counseled repeatedly in an effort to help him correct his deficiencies and had many opportunities to improve his behavior. He failed to respond to those rehabilitative efforts. He was mature and responsible for his actions, and therefore was held accountable for them. Because the member received an administrative discharge, not a punitive discharge, the Board must find an inequity or impropriety on which to base an upgrade; clemency is not available as a reason for upgrading an administrative discharge. No inequity or impropriety was found in this 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

[REDACTED]

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/04/30 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 71/11/06. Enlmt Age: 17 8/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-86, E-73, G-72, M-67. PAFSC: 46130 - Munitions Systems Specialist. DAS: 91/01/21.

b. Prior Sv: (1) AFRes 89/08/03 - 90/07/01 (10 months 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as 90/07/02 for 4 yrs. Svd: 01 Yr 09 Mos 29 Das, all AMS.

b. Grade Status: AMN - 92/03/31 (Article 15, 92/03/31).  
A1C - 91/11/02.  
AMN - Unknown.

c. Time Lost: None.

d. Art 15's: (1) 92/03/31, Griffiss AFB, NY - Article 86. You did, on or about 18 Mar 92, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Amn, suspended forfeiture of \$440.00 pay per month for 2 months, and 30 days restriction. (Appeal/Denied) (No mitigation)

(2) 91/02/19, Griffiss AFB, NY - Article 111. You, did, on or about 9 Feb 91, at Chestnut street, adjacent to the Mohawk Gate operate a vehicle, to wit: a passenger car, while drunk. Suspended reduction to the grade of AB, forfeiture of \$150.00 per month for two months, and 30 days correctional custody. (No appeal) (No mitigation)

e. Additional: LOR, 27 NOV 91 - Dereliction of duties and asleep on duty.  
RIC, 03 JUL 91 - Late to work.  
LOR, 17 JUN 91 - Failure to go & late to work.  
RIC, 29 Apr 91 - Late for work.  
RIC, 18 APR 91 - Late for Bay Orderly.  
RIC, 04 APR 91 - Failure to go and late for work on two occasions.

f. CM: None.

g. Record of SV: None.

(Discharged from Griffiss AFB)

h. Awards & Decs: AFOUA, NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (08) Mos (28) Das  
TAMS: (01) Yr (09) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/06/19.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. DD Form 214.
2. Letter to the Air Force Discharge Review Board (DRB).
3. Four Letters of Support.
4. Twenty Three Employee Data Records.

02/09/26/ia



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**DEPARTMENT OF THE AIR FORCE**  
HEADQUARTERS 416TH WING (SAC)  
GRIFFISS AIR FORCE BASE, NEW YORK 13441-5000

REPLY TO  
ATTN OF: JA

22 April 1992

SUBJECT: Legal Review, Administrative Discharge, AFR 39-10, Chapter 5, Section H,  
Paragraph 5-46, Amn [REDACTED]; FR [REDACTED] 416 MMS (SAC)

TO: CC

1. Summary: Discharge action was initiated against Amn [REDACTED] FR [REDACTED], on 15 April 1992, for misconduct - minor disciplinary infractions pursuant to AFR 39-10, paragraph 5-46. The case has been processed by notification IAW AFR 39-10, paragraph 6-8. Respondent's commander has recommended a general discharge without probation and rehabilitation. For reasons set forth below, I concur with the commander's recommendation.

2. Facts:

a. For the Government:

(1) The respondent engaged in the following incidents:

<u>Date</u>	<u>Incident</u>	<u>Action</u>
9 Feb 91	Driving While Intoxicated	Article 15, UCMJ, 19 Feb 91
29 Mar 91 & 4 Apr 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 4 Apr 91
18 Apr 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 18 Apr 91
29 Apr 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 29 Apr 91
13 Jun 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Letter of Reprimand, 17 Jun 91
3 Jul 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 3 Jul 91

22 Nov 91	Dereliction of Duties/ Asleep on Duty	Letter of Reprimand/ Unfavorable Informa- tion File (UIF)/Con- trol Roster Action
18 Mar 92	Failure to Go at the Time Prescribed to Appointed Place of Duty	Article 15, UCMJ, 7 Apr 92

(2) Respondent has approximately one year 9 months of active and inactive military service. Respondent has no Enlisted Performance Report (EPR) on record due to insufficient period of supervision.

b. For the Respondent: Respondent has submitted a personal statement on his own behalf with 3 attachments (see tab 3) for you to consider when making your decision in his case. Respondent requests he be granted probation and rehabilitation, or if discharged, that his service be characterized as honorable.

### 3. Discussion:

a. Pursuant to AFR 39-10, paragraph 5-53, for this type of discharge, you are the separation authority if respondent's service is characterized as general. However, if respondent's service is characterized as honorable or under other than honorable conditions (UOTHC), then the separation authority is 8 AF/CC.

b. You may consider the above information to determine the following issues:

- (1) Is respondent subject to discharge;
- (2) Should he be discharged;
- (3) How should respondent's service be characterized.

c. Respondent is subject to discharge based on misconduct - minor disciplinary infractions, pursuant to AFR 39-10, paragraph 5-46.

d. Respondent should be discharged. He has engaged in misconduct which resulted in action under Article 15, UCMJ, twice. In addition, he has received two letters of reprimand/unfavorable information file (UIF), four letters of counseling and control roster action. He has demonstrated he is unwilling to conform to Air Force rules and regulations, therefore he is unable to serve in the United States Air Force.

e. Respondent's service should be characterized as general. AFR 39-10, paragraph 1-18b provides that a general characterization is warranted when significant negative aspects of the airman's conduct outweigh the positive aspects of his/her military record. This characterization is appropriate.

f. You should note that a prerequisite to an under other than honorable conditions (UOTHC) discharge entitles the respondent to have his case heard by an administrative discharge board. A board hearing is not recommended due to respondent's short time in service.

g. Probation and rehabilitation are not appropriate in this case. Respondent has not responded to the numerous corrective actions already taken. He shows no future rehabilitative potential and will likely continue to be a disruptive and undesirable influence in duty assignments. Retention is not consistent with maintenance of good order, discipline, and morale of the United States Air Force.

4. Conclusion:

a. The file is substantially in compliance with the provisions of AFR 39-10, and is legally sufficient to discharge the respondent prior to expiration of his term of enlistment.

b. You have the following options:

(1) Direct the action be discontinued and the respondent retained if you find the recommendation for discharge is not supported by a preponderance of the evidence.

(2) Direct reinitiation under a more appropriate section of AFR 39-10, if you find the action was initiated under an inappropriate section.

(3) Direct reinitiation for processing according to AFR 39-10, Chapter 6, Section C, if the issuance of an under other than honorable conditions discharge may be warranted. The respondent will be entitled to have his case heard by an administration discharge board.

(4) Forward the file to 8 AF/CC with your recommendation for an honorable discharge.

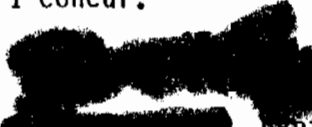
(5) Approve the recommendation and order respondent separated with a general discharge with or without probation and rehabilitation.

5. Recommendation: Approve the recommended discharge and separate the respondent with a general discharge without probation and rehabilitation. Should that be your decision, your signature on the attached letter will effect such action.

  
 Capt, USAF  
 Assistant Staff Judge Advocate

1 Atch  
 Case File - Amn 

I concur.

  
 Capt, USAF  
 Deputy Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE  
416TH LOGISTICS GROUP (SAC)  
GRIFFISS AIR FORCE BASE, NEW YORK 13441-5000

REPLY TO  
ATTN OF: 416 MMS/CC

15 APR 1992

SUBJECT: Letter of Notification - Discharge Under the Provisions of AFR 39-10

TO: Amn [REDACTED], FR [REDACTED] 416 MMS

1. I am recommending your discharge from the United States Air Force for misconduct - 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 either honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are your acts of misconduct, as evidenced by the following:

<u>Date</u>	<u>Incident</u>	<u>Action</u>
9 Feb 91	Driving While Intoxicated	Article 15, UCMJ, 19 Feb 91
29 Mar 91 & 4 Apr 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 4 Apr 91
18 Apr 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 18 Apr 91
29 Apr 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 29 Apr 91
13 Jun 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Letter of Reprimand, 17 Jun 91
3 Jul 91	Failure to Go at the Time Prescribed to Appointed Place of Duty	Written Counseling, 3 Jul 91
22 Nov 91	Dereliction of Duties/ Asleep on Duty	Letter of Reprimand/ Unfavorable Information File (UIF)/Control Roster Action



18 Mar 92

Failure to Go at the  
Time Prescribed to  
Appointed Place of Duty

Article 15, UCMJ, 7 Apr 92

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. 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], at Depot 1, 2nd floor, extension 2015, on 15 APR 92 at 1900 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 20 APR 92, (3 duty days) 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 the Griffiss AFB Hospital, physical exams section at 0700 hours on 16 APR 92 for the examination. Uniform of the day is required.

ALSO, PRIMARY CARE AT 0900 hours, 16 APR 92, with P.A. [REDACTED]

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 2. A copy of AFR 39-10 is available for your use at the 416th MMS Unit Orderly Room.

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

[REDACTED]  
[REDACTED], Major, USAF  
Commander

2 Atchs

1. Supporting documents for the reason for discharge:
  - a. AF Form 3070, (Article 15, UCMJ), 19 Feb 91 w/7 Atchs:
    1. AF Form 3070 Continuation Sheet
    2. Amn's Response to Article 15, 15 Feb 91
    3. SAC Form 751, (Sobriety Determination Report), 9 Feb 91
    4. AF Form 1168, (Statement of Suspect), 9 Feb 91
    5. AF Form 1169, (Statement of Witness/SSgt [REDACTED]), 9 Feb 91
    6. DD Form 1569, (Incident/Complaint Report), 9 Feb 91

7. 416 CSG/CC Ltr, (Revocation of On-Base Driving Privileges), 9 Feb 91
- b. AF Form 174, Record of Individual Counseling, 4 Apr 91
- c. AF Form 174, Record of Individual Counseling, 18 Apr 91
- d. AF Form 174, Record of Individual Counseling, 29 Apr 91
- e. Letter of Reprimand, 17 Jun 91
- f. AF Form 174, Record of Individual Counseling, 3 Jul 91
- g. Letter of Reprimand/UIF, 27 Nov 91
- h. AF Form 1058, Control Roster Action, 11 Dec 91
- i. AF Form 3070, (Article 15, UCMJ), 7 Apr 92 w/5 Atchs:
  1. AF Form 3070 Continuation Sheet
  2. 416 WG/JA Ltr, (Recommendation on Appeal of Nonjudicial Punishment) 7 Apr 92
  3. 416 MMS/CC Ltr, 6 Apr 92
  4. Amn's Appeal of Article 15 Punishment Ltr, 6 Apr 92 w/2 Atchs:
    1. Financial Counseling Documentation, 6 Apr 92
    2. Performance Feedback Worksheet, 26 Feb 9
    5. Amn's Written Presentation to Article 15 Action, 27 Mar 92 w/9 Atchs:
      1. Statement/MSgt [REDACTED], 25 Mar 92
      2. Statement/SSgt [REDACTED], 25 Mar 92
      3. Statement/SrA [REDACTED], Undtd
      4. Statement/Amn [REDACTED], 24 Mar 92
      5. Statement/Amn [REDACTED]

- w/2 Atchs:
  1. Financial Statement
  2. Leave & Earnings Statements
  6. Amn's List of Accomplishments at GAFB, NY

7. 416 LG/CC Letter of Appreciation, 5 Dec 91
8. 416 MMS/CCF Commanders Day Manning Support Ltr, 23 May 91
9. 1991 Intramural Softball Schedule
2. Amn's Acknowledgment of LON