

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
[REDACTED]		A1C	[REDACTED]			
TYPE	X PERSONAL APPEARANCE		RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO					
	X					
MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
		X*				
		X*				
		X*				
		X*				
ISSUES A94.05		INDEX NUMBER A67.50		EXHIBITS SUBMITTED TO THE BOARD		
				1	ORDER APPOINTING THE BOARD	
HEARING DATE 1 AUG 02		CASE NUMBER FD2001-0531		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.						
* Change reason and authority for the discharge to Secretarial Authority, SPD: JFF and change RE Code to 3K.						
Advise applicant of the decision of the Board.						
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT			
[REDACTED]			[REDACTED]			
INDORSEMENT					DATE: 1 AUG 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

FD01-0531

GENERAL: The applicant appeals for upgrade of discharge to Honorable, to change the reason for the discharge, and to change his reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB, MD on August 1, 2002.

The following additional exhibits were submitted at the hearing: Exhibit 5: Applicant's issues; Exhibit 6: 5 Character Letters; Exhibit 7: College Transcript; Exhibit 8: Exhorter's License

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The discharge is upgraded to Honorable, and the reason for discharge is changed to Secretarial Authority.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received a General discharge for Misconduct – Pattern of Misconduct. He received two Article 15's for resisting apprehension and for being drunk and disorderly, and he received a Vacation Action for failing to complete his 12-hour shift. He also received a Letter of Reprimand and two Reports of Individual Counseling for failure to safeguard his military ID Card, being disrespectful to a corrections monitor, and for lying. After a thorough and complete consideration of the information submitted by the applicant, the applicant's compelling personal testimony, and information contained in the record, the Board concluded there was sufficient mitigation and extenuation to substantiate upgrade of the discharge and to change the reason for the discharge. The Board also agreed to change applicant's reenlistment code.

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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable and Secretarial Authority under the provisions of Title 10, USC 1553. Applicants RE Code should be changed to 3K.

Attachment:
Examiner's Brief

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

[REDACTED]
(Former A1C) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/03/03 UP AFR 39-10, para 5-47(b) (Pattern of Misconduct). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 69/11/12. Enlmt Age: 17 3/12. Disch Age: 22 3/12. Educ:HS DIPL. AFQT: N/A. A-76, E-60, G-59, M-46. PAFSC: 90450 - Cardiopulmonary Laboratory Specialist. DAS: 88/11/22.

b. Prior Sv: (1) AFRes 87/02/27 - 87/11/18 (8 months 22 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 87/11/19 for 6 yrs. Svd: 04 Yrs 03 Mo 15 Das, all AMS.

b. Grade Status: A1C - 91/07/31 (Article 15, Vacation, 92/01/13)
SGT - (EPR Indicates): 90/12/01-91/11/30
SRA - (EPR Indicates): 89/07/20-90/07/19
A1C - 88/01/07

c. Time Lost: none.

d. Art 15's: (1) 92/01/13, Vacation, Luke AFB, AZ - Article 92. You, who knew or should have known of your duties, on or about 12 Dec 91, were derelict in the performance of those duties in that you negligently failed to complete your 12 hour shif as it was your duty to do so. Reduction to A1C. (No appeal) (No mitigation)

(2) 91/07/31, Luke AFB, AZ - Article 134. You were, on or about 11 Jul 91, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to A1C (suspended until 29 Jan 92), forfeiture of \$100.00 pay per month for two months, and 45 days extra duty. (No appeal) (No mitigation)

(3) 88/12/21, Luke AFB, AZ - Article 95 & 134. You did, on or about 04 Dec 88, resist being apprehended by TSgt -- -----, a security policeman, a person authorized to apprehend you. You were, on or about 04 December 88, drunk and disorderly. Reduction to Amn (suspended until 20 Jun 89), 30 days correctional custody, and forfeiture of \$25.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: LOR, 01 FEB 91 - Failure to safeguard DD 2AF (Military ID card).

RIC, 05 JAN 89 - Disrespect to CC Monitor.

RIC, 24 DEC 88 - Lying.

f. CM: none.

g. Record of SV: 87/11/19 - 89/03/21 Luke AFB 8 (Annual)
89/03/22 - 89/07/19 Luke AFB 4 (Initial)
89/07/20 - 90/07/19 Luke AFB 5 (Annual)
90/07/20 - 90/11/30 Luke AFB 5 (CRO)
90/12/01 - 91/11/30 Luke AFB 4 (Annual)

(Discharged from Luke AFB)

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

i. Stmt of Sv: TMS: (05) Yrs (00) Mos (07) Das

TAMS: (04) Yrs (03) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/11/21.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
none.

02/03/13/ia



DEPARTMENT OF THE AIR FORCE

58TH MEDICAL GROUP (TAC)

LUKE AIR FORCE BASE AZ 85309-5000

REPLY TO
ATTN OF:

CC

FEB 11 1992

SUBJECT:

Notification Letter

TO:

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct. The authority for this action is AFR 39-10, Section H, paragraph 5-47(b). If my recommendation is approved, your service will be characterized as honorable, general or under other than honorable conditions. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 12 Dec 91, you were derelict in the performance of your duties, as evidenced by a Letter of Reprimand, dated 8 Jan 92. For this incident, you also received a Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, demoting you to Airman First Class.

b. On or about 11 Jul 91, you were disorderly, as evidenced by an Article 15 action, dated 31 Jul 91. Punishment consisted of 45 days extra duty and forfeiture of \$100.00 pay per month for two months and reduction to the grade of airman first class (suspended).

c. On 22 Jan 91, you failed to safeguard your DD Form 2AF (military identification card), as evidenced by a Letter of Reprimand, dated 1 Feb 91

d. On 5 Jan 89, you did, while leaving the dining hall, make an unsolicited remark and were disrespectful to the CC monitor, as evidenced by a Record of Individual Counseling, dated 5 Jan 89.

e. On 23 Dec 88, you were counseled for lying, as evidenced by a Record of Individual Counseling, dated 24 Dec 88.

f. On or about 4 Dec 88, you resisted being apprehended by a security policeman, and you were drunk and disorderly, as evidenced by Article 15 action, dated 21 Dec 88. Punishment consisted of 30 days correctional custody, forfeiture of \$25.00 pay per month for two months and reduction to the grade of airman (suspended).

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

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decide whether you will be discharged or retained in the Air Force, and if 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. An appointment for you to consult the Area Defense Counsel at Building 1150, Suite 2076, Luke AFB, AZ., Ext 6701 has been scheduled for at 11 Feb 92 / 1500. You may consult civilian counsel at your own expense.

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 FEB 14 1992 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 58 MED GP, Physical Exams Section at 0600 on 28 Feb 92 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 your unit orderly room.

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

 Colonel, USAF
Commander

6 Atchs

1. LOR, 8 Jan 92/
AF 366, 15 Jan 92
2. Art 15, 31 Jul 91
3. LOR, 1 Feb 91
4. Record of
Individual
Counseling, 5 Jan
89
5. Record of Individual
Counseling, 24 Dec
88
6. Art 15, 22 Dec 88



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 58TH FIGHTER WING (TAC)
LUKE AIR FORCE BASE AZ 85309-5000

FD 2001 - 0531

REPLY TO
ATTN OF: JA [REDACTED]

26 FEB 1992

SUBJECT: Legal Review of Administrative Discharge Al [REDACTED]
[REDACTED] 58 MED GP

TO: 58 FW/CC

1. ACTION: This case is before you in your capacity as discharge authority for review and action. The 58 MED GP/CC recommends the respondent be separated from the United States Air Force with a general discharge without probation and rehabilitation pursuant to AFR 39-10, Section H, paragraph 5-47(b) for a pattern of misconduct. I concur.

2. FACTS FOR THE GOVERNMENT:

a. On 12 Dec 91, respondent was derelict in the performance of his duties, as evidenced by a Letter of Reprimand, dated 8 Jan 92. For this incident, he also received a Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, demoting him to Airman First Class.

b. On or about 11 Jul 91, respondent was disorderly, as evidenced by an Article 15 action, dated 31 Jul 91. Punishment consisted of 45 days extra duty and forfeiture of \$100.00 pay per month for two months and reduction to the grade of airman first class (suspended).

c. On 22 Jan 91, respondent failed to safeguard his DD Form 2AF (military identification card), as evidenced by a Letter of Reprimand, dated 1 Feb 91.

d. On 5 Jan 89, respondent did, while leaving the dining hall, make an unsolicited remark and was disrespectful to the CC monitor, as evidenced by a Record of Individual Counseling, dated 5 Jan 89.

e. On 23 Dec 88, respondent was counseled for lying, as evidenced by a Record of Individual Counseling, dated 24 Dec 88.

f. On or about 4 Dec 88, respondent resisted being apprehended by a security policeman, and he was drunk and disorderly, as evidenced by Article 15 action, dated 21 Dec 88. Punishment consisted of 30 days correctional custody, forfeiture of \$25.00 pay per month for two months and reduction to the grade of airman (suspended).

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3. FACTS FOR THE RESPONDENT:

a. The respondent is 22 years old, and has served approximately 4 years of a current 6 year enlistment. AQE scores are: A-76; E-60; G-59; and M-46. The APR/EPR history is as follows:

(4) 30 Nov 91 (EPR) (5) 30 Nov 90 (EPR) (5) 19 Jul 90 (EPR)
(4) 19 Jul 89 (EPR) (8) 21 Mar 89

The respondent is entitled to wear the Air Force Training Ribbon, NCO Professional Military Education Ribbon, National Defense Service Medal, Air Force Longevity Service Award.

b. The respondent has met with military counsel and has elected to submit statements regarding this discharge action. In his statement, the respondent maintains that the incidents behind his discharge were isolated and blown out of proportion. The respondent cited some of his accomplishments which include being a distinguished graduate from the NCO Preparatory Course, Airman of the Year for the hospital in 1990 and Airman of the month for the 832nd Air Division in August 1990. In addition, the respondent has submitted several statements from supervisors and health care providers which attest to his good duty performance.

4. ERRORS AND IRREGULARITIES: This file must contain a physical examination authorizing separation prior to the discharge of this airman.

5. DISCUSSION:

a. Legal Sufficiency: This file has been prepared in substantial compliance with the provisions of AFR 39-10 and it is legally sufficient to support discharge, subject to inclusion of the discharge physical.

b. Character of Discharge: The respondent's commander has recommended a general discharge. A general discharge is appropriate when the member's service has been honest and faithful, but significant negative aspects of the member's conduct or duty performance outweigh the positive. An under other than honorable conditions (UOTHC) discharge is appropriate when the misconduct constitutes a significant departure from the conduct expected of airmen. In this case, the respondent has received two Articles 15, two Letters of Reprimand and Records of Counseling for misconduct which ranges from being drunk and disorderly to dereliction of duty. The respondent's misconduct even continued while he was in correctional custody for a previous offense. The respondent's conduct has been well below that expected of airmen in the United States Air Force, and negative aspects outweigh the positive. The misconduct, however, is not so serious as to warrant a UOTHC characterization. I concur with the squadron commander's recommendation for a general discharge.

c. Probation and Rehabilitation: Probation and rehabilitation, in accordance with AFR 39-10, paragraph 7-3, would be inappropriate in this case and is clearly contrary to the best interests of good order and discipline. The respondent has clearly demonstrated a lack of desire and ability to conform to the dictates of military discipline. There is nothing in the file to indicate the respondent would, if offered additional opportunities, conform to Air Force standards. Probation and rehabilitation should be denied.

6. OPTIONS: As the discharge authority you have the following options:

- a. Retain the respondent; or
- b. Forward the case to I2AF/CC recommending the respondent receive an honorable discharge; or
- c. Separate the respondent with a general discharge with or without probation and rehabilitation; or
- d. Refer the case to an administrative discharge board.

7. RECOMMENDATION: Based on the foregoing, I recommend you separate the respondent from the United States Air Force with a general discharge without probation and rehabilitation.


Lt Col, USAF
Staff Judge Advocate