

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE	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					
MEMBER SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X	
[REDACTED]					X	
[REDACTED]					X	
[REDACTED]					X	
[REDACTED]					X	
ISSUES	A94.05	INDEX NUMBER	A67.50			
		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			
HEARING DATE	04 Nov 2003	CASE NUMBER	FD-2001-0539			
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
			TAPE RECORDING OF PERSONAL APPEARANCE			
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
<p>Case heard at Washington, D.C.</p> <p>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</p>						
SIGNATURE OF RECORDER [REDACTED]		SIGNATURE OF BOARD PRESIDENT [REDACTED]				
INDORSEMENT		DATE: 11/05/2003				
TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2001-0539

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 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 that would justify a change of discharge.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. Applicant also states that he has conducted himself in a respectable manner since discharge. The records indicated the applicant received two Article 15s, both for assault. 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. The characterization of the discharge received by the applicant was found to be appropriate. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case. Finally, the applicant makes mention 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 suggested or 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 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 93/05/27 UP AFR 39-10, para 5-47a (Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 70/05/09. Enlmt Age: 19 4/12. Disch Age: 23 0/12. Educ:HS DIPL. AFQT: N/A. A-56, E-45, G-39, M-74. PAFSC: 45254B - Tactical Aircraft Maintenance Specialist. DAS: 92/05/19.

b. Prior Sv: (1) AFRes 89/10/02 - 90/01/15 (3 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 90/01/06 for 4 yrs. Svd: 03 Yrs 04 Mo 12 Das, all AMS.

b. Grade Status: AMN - 93/04/23 (Article 15, 93/04/23)
A1C - 91/05/16
AMN - 90/07/16

c. Time Lost: none.

d. Art 15's: (1) 93/04/23, Hill AFB, UT - Article 128. You did, on or about 3 Apr 93, unlawfully strike Amn ----- in the face with your hand. Article 134. You were, on or about 3 Apr 93, drunk and disorderly. Reduction to Amn. (No appeal) (No mitigation)

(2) 92/01/08, Hill AFB, UT - Article 128. You, did, on or about 27 Dec 91, unlawfully strike A1C -----, on the head with your fist. Reduction to the grade of Airman, forfeiture of \$250.00 pay per month for two months, and 15 days extra duty. Reduction to the grade of Airman is mitigated to forfeiture of \$100.00 pay per month for one month. (No appeal)

e. Additional: none.

f. CM: none.

g. Record of SV: 90/01/16 - 91/09/15 Torrejon AB 4 (Initial)
91/09/16 - 92/01/19 Torrejon AB 2 (CRO)REF
92/01/20 - 93/01/19 Hill AFB 3 (Annual)
93/01/20 - 93/05/10 Hill AFB 2 (HAF Dir)REF

(Discharged from Hill AFB)

h. Awards & Decs: AFOUA, AFGCM, NDSM, SWASM W/1 BSS, AFOSSTR, SAEMR, AFTR, KLM, AFOSLTR.

i. Stmt of Sv: TMS: (03) Yrs (07) Mos (26) Das
TAMS: (03) Yrs (04) Mos (12) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/11/30.
(Change Discharge to Honorable)

Issue 1: Please accept the enclosed DD293 for upgrade of discharge. Attached are numerous letters of appreciation from active duty pilots of the United States Air Force. Also, are letters of support from past employers verifying my conduct since the Air Force.

While serving in the United States Air Force I managed to put myself in a bad position by associating with the wrong crowd of people. Near my last year of service there was a barracks party, which I happened to be drinking. A fight broke out and I stepped in to help dissolve the issue, instead I ended up in the fight. Prior to that fighting incident, I had made a few bad financial decisions which, I had bounced a few checks, as the result of that, I couldn't pay a couple of my bills, which the creditors phoned my commanding officer. Therefore, I didn't have the approval of my off duty conduct from my commander during that time. Combine that with the fighting and drinking it did not represent my true demeanor of how I felt about the United States Air Force, and what it represents.

I truly understand that my conduct did not represent the highest levels of what the United States Air Force stands for. I made a choice of accepting the General Under Honorable discharge, instead of taking it to trail(sic). I strongly feel that I had a fair chance of winning had it gone to trail (sic), however, I didn't want to chance getting a Dishonorable Discharge.

Although I may have made some poor choices, they never ever interfered with my on duty performance as the attached documentation will attest.

Since I left the Air Force I have conducted myself in a respectable manner.

I truly understand that I may not be granted a "Honorable" discharge, but I would ask the board to consider changing my re-entry code so that I may re-enter the United States Air Force. My ultimate goal is to re-enter the United States Air Force and serve my country honorably. I feel I have a lot to offer the Air Force and want to prove myself to the Air Force.

Finally, should I be granted a hearing, I wish to bring a friend for support.

Thank you for your time regarding this manner.

ATCH

1. Congressional Correspondenct, 04 Dec 01.
2. Letter to the Discharge Review Board., 30 Nov 01.
3. DD Form 214.
4. Certificate of Recongnition, 04 Apr 90.
5. Letter of Appreciation, 30 Nov 01.
6. Maintenance Quality Assurance Evaluation.
7. Five Flightline Maintenance Critique Sheets.
8. Maintenance Quality Assurance Evaluation.
9. Page two of Enlisted Performance Report.
10. Two Flightline Maintenance Critique Sheets.
11. Maintenance Quality Assurance Evaluation.
12. Airman Performance Feedback Worksheet.
13. Letter of Appreciation.
14. Character Reference.
15. Employee Performance Evaluation.
16. Character Reference.

02/04/05/ia

FD 2001-0539

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS OGDEN AIR LOGISTICS CENTER (AFMC)
HILL AIR FORCE BASE

Reply to

Attn Of: JAM-CL (Captain [REDACTED])

18 May 1993

Subject: Legal Review -- Administrative Discharge under AFR 39-10, paragraph 5-47a, Airman [REDACTED], 34 FS (ACC)

To: 649 SPTG/CC

1. Basis for Action. On 11 May 1993, the Commander, 34 FS, notified the respondent that he was recommending his discharge from the service for a pattern of misconduct consisting of discreditable involvement with military or civil authorities under AFR 39-10, paragraph 5-47a. The Commander recommended a general discharge without probation and rehabilitation (P & R). This case is being processed by the notification procedure, and the worst characterization authorized is a general discharge.

2. Evidence for the Commander. The evidence supporting the Commander's recommendation consists of the following:

a. On or about 3 April 1993, the respondent unlawfully struck another airman in the face with his hand. Additionally, on 3 April 1993, the respondent was drunk and disorderly. As a result, the respondent received nonjudicial punishment under Article 15 consisting of a reduction in grade to Airman, with a new date of rank of 23 April 1993.

b. On or about 27 December 1991, at or near Torrejon de Ardoz, Spain, the respondent unlawfully struck another airman in the head with his fist. As a result, he received nonjudicial punishment under Article 15 consisting of a reduction in grade to Airman, with a new date of rank of 8 January 1992, forfeiture of \$25.00 per month for two months, and 15 days extra duty. The reduction to the grade of Airman was mitigated on 31 March 1992 to a forfeiture of \$100.00 per month for one month.

3. Evidence for the Respondent. On 11 May 1993, the Commander informed the respondent of his right to submit a statement in his own behalf, and consult legal counsel. The respondent did not submit a statement for your consideration

4. Errors or Irregularities. The respondent's discharge package is missing his medical evaluation and copies of all of his EPRs. The letter requesting that a temporary ID card be issued under attachment two is not necessary. I noted no other errors or administrative irregularities of legal significance.

5. Discussion. An airman may be administratively discharged for a pattern of misconduct in the current enlistment consisting of discreditable involvement with military or civil authorities. Based upon his conduct, we conclude that a general discharge is appropriate, and P & R would serve no useful purpose.

In this case, the respondent actions demonstrate an inability to adapt his off-duty behavior to military standards. In the most recent incident, the respondent struck another airman in the face with his hand. An investigation of the incident also indicated that the respondent was drunk and disorderly.

As a result, he received Article 15. In a separate incident, the respondent struck another airman in the head with his fist. As a result of this conduct, he also received an Article 15. In addition to these off-duty incidents, the Commander also received a letter from [REDACTED] Bank in December 1992 informing him that the respondent was behind \$789.62 on his car payments and they had no proof of insurance coverage. The contract required the respondent to make timely payments and keep his car insured; therefore, the bank purchased insurance in the amount of \$410.69. This type of conduct shows a total disregard for Air Force policies and standards on how airman should behave while off-duty. As can be seen, the Commander's rehabilitative efforts met with negative results. Therefore, due to the seriousness of the conduct and the respondent's failure to modify his behavior, we believe that a general discharge is appropriate and P & R would serve no useful purpose.

6. Options. As SPCM authority, you have the following options:

- a. Order the action terminated;
- b. Return the action to the squadron, and order the action be initiated under a more appropriate discharge provision;
- c. Recommend to the GCM authority that he characterize the respondent's discharge as honorable with or without P & R; or
- d. Order the respondent discharged with a general discharge characterization with or without P & R.

7. Recommendation. We recommend you order the respondent's separation from the Air Force with a general discharge without P & R under AFR 39-10, paragraph 5-47a for discreditable involvement with military or civil authorities. We recommend debarment.

[REDACTED], Colonel, USAF
Staff Judge Advocate

1 Atch
Case File



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 388TH FIGHTER WING (ACC)
HILL AIR FORCE BASE, UTAH

FD2001-0539

FROM: 34 FS/CC

11 MAY 1993

SUBJ: Letter of Notification

TO: Amn [REDACTED] 34 FS

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct involving discreditable involvement with military or civil authorities. The authority for this action is AFR 39-10, paragraph 5-47a. If my recommendation is approved, this action could result in your separation with a general or honorable discharge. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 3 April 1993, at Hill AFB, Utah, you did unlawfully strike Airman [REDACTED] in the face with your hand. Additionally, on 3 April 1993, you were drunk and disorderly. As a result, you received nonjudicial punishment under Article 15 consisting of a reduction in grade to the rank of Airman, with a new date of rank of 23 April 1993 (Atch 1a).

b. On or about 27 December 1991, at or near Torrejon de Ardoz, Spain, you did unlawfully strike A1C [REDACTED] on the head with your fist. As a result, you received nonjudicial punishment under Article 15 consisting of a reduction in grade to Airman, with a new date of rank of 8 January 1992, and forfeiture of \$25.00 per month for two months (Atch 1b). The reduction to the grade of Airman was mitigated on 31 March 1992 to a forfeiture of \$100.00 per month for one month (Atch 1c).

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court martial jurisdiction or 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.

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 with Capt [REDACTED] in Bldg 146 on 12 MAY at 1430 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 14 MAY, unless you submit 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 Physical Exam Section, USAF Hospital Hill at 0700 hours on 12 MAY 1993.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 1. A copy of AFR 39-10 is available for use in the 34 FS Orderly Room.

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



Commander

Lt Col, USAF

2 Atch

1. Supporting Documents for the Reason for Discharge
 - a. AF Form 3070, 23 Apr 93 w/atc
 - b. AF Form 3212, 31 Mar 92 w/atc
 - c. AF Form 3070, 8 Jan 92 w/atc
 - d. Other Pertinent Data
2. Airman's Receipt of Notification Letter