

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ██████████		<b>GRADE</b> SRA	<b>AFSN/SSAN</b> ██████████	
<b>TYPE</b>	<b>PERSONAL APPEARANCE</b>	<b>X RECORD REVIEW</b>		
<b>COUNSEL</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>		
<b>YES</b>	<b>NO</b>			
	X			
<b>MEMBERS SITTING</b>		<b>VOTE OF THE BOARD</b>		
		<b>HON</b>	<b>GEN</b>	<b>UOHC</b>
				<b>OTHER</b>
				<b>DENY</b>
██████████				X
██████████				X
██████████				X
██████████				X
██████████				X
<b>ISSUES</b> A94.05	<b>INDEX NUMBER</b> A67.10	<b>EXHIBITS SUBMITTED TO THE BOARD</b>		
		<b>1</b>	ORDER APPOINTING THE BOARD	
		<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE	
		<b>3</b>	LETTER OF NOTIFICATION	
		<b>4</b>	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> 20 JUN 03	<b>CASE NUMBER</b> FD2002-0086			
<b>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.</b>				
<b>REMARKS</b>				
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> ██████████		<b>SIGNATURE OF BOARD PRESIDENT</b> ██████████		
<b>INDORSEMENT</b>			<b>DATE: 20 JUN 03</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		

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD02-0086

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable and to change the 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 evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

**ISSUE:** Applicant states his discharge was too harsh because it was based on one Letter of Reprimand. The record indicates the applicant received two Letters of Reprimand for failure to pay just debts, and violation of AFR 35-10 standards, dereliction of duty, and disrespect toward two noncommissioned officers. In addition, he received four Records of Individual Counseling and a Memorandum for Record for failure to go (three times), delinquent debt, and dereliction of duty. It is obvious that there is more than just one Letter of Reprimand. 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. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the discharge.

**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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 94/05/20 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 72/07/19. Enlmt Age: 17 0/12. Disch Age: 21 10/12. Educ:HS DIPL. AFQT: N/A. A-56, E-77, G-68, M-91. PAFSC: 2A353A - Tactical Aircraft Maintenance Apprentice. DAS: 90/12/03.

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

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 90/07/02 for 4 yrs. Svd: 03 Yrs 10 Mo 19 Das, all AMS.

b. Grade Status: SRA - 92/11/02

c. Time Lost: none.

d. Art 15's: none.

e. Additional: AF 174, 24 OCT 91 - Failure to go.  
AF 174, 08 NOV 91 - Delinquent debt.  
AF 174, 03 JAN 92 - Failure to go.  
AF 174, 21 FEB 92 - Dereliction of duty.  
MFR, 12 OCT 93 - Failure to go.  
LOR, 18 JAN 94 - Violation of AFR 35-10 standards, dereliction of duty, and disrespect toward two noncommissioned officers.  
LOR, 08 APR 94 - Failure to pay just debts.

f. CM: none.

g. Record of SV: 90/07/02 - 92/03/29 Kadena AB 2 (Initial)  
92/03/30 - 93/03/29 Kadena AB 3 (Annual)  
93/03/30 - 94/01/24 Kadena AB 2 (Cmdr Dir)REF

(Discharged from Edwards AFB)

h. Awards & Decs: AFGCM, NDSM, AFOSLTR, AFTR, AFOUA W/1 OLC.

i. Stmt of Sv: TMS: (04) Yrs (09) Mos (18) Das

TAMS: (03) Yrs (10) Mos (19) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/02/26.  
(Change Discharge to Honorable and Change the RE Code)

Issue 1: My discharge be upgraded from a general to an Honorable. My discharge is inequitable because it was based on one letter of Reprimand with numerous write ups for the purpose of building a stronger case against (sic) me for discharge. The Letter of Reprimand was biased and did not include all the facts of what really happened. As a result of the reprimand, an EPR was done, and I received low marks. I feel that the EPR was biased as it only showed, from my view that it did not include the whole reporting period, but only the reprimand. I received low marks in areas where I feel I should have received higher. As a result of the EPR, I was placed on a control roster March 18<sup>th</sup>. On April 4<sup>th</sup>, 1994 the aircraft I was crewing crashed. As a result during that week, I was in and out of safety boards and accident boards. The later part of the same week I was crewing another jet when the NCOIC, the same one who gave me the LOR, asked me to look at the aircraft forms and point (sic) out the mistakes, I looked through the forms found and corrected the mistakes. When he came back he told me that I didn't know how to follow orders. Between that and having my rights read to me I lost it. I sent down to my flight chief and ask him to assign me to work in the dorm. I needed of (sic) the flight line. About ten minutes later I was called into the commanders office and I then proceeded to give him my line badge. I was told I was being discharged. I was officially notified on May 4<sup>th</sup> of the reasons for my discharge. I feel that I wasn't give (sic) time to show that I can change my ways and show that I can rehabilitate myself. I was put on a control roster in January and four months later I was discharged. I hope you will grant me this request and thank you for your time.

Issue 2: My reenlistment code be changed to a one or a waiver code.

#### ATCH

1. Applicant's Issues.
2. Performance Feedback Worksheet.
3. Certificates of course completion.
4. Quality Assurance Evaluations.
5. AF Form 418, Selective Reenlistment Consideration.
6. CAM training records.
7. DD Form 256, Honorable Discharge Certificate.
8. DD Form 4/1, Enlistment/Reenlistment Document.

02/06/10/ia

FD 2002-0086

DEPARTMENT OF THE AIR FORCE  
PACIFIC AIR FORCES



6 May 1994

MEMORANDUM FOR 18 WG/CC

FROM: 18 WG/JA  
Unit 5141, Box 40  
APO AP 96368-5141

SUBJECT: Legal Review - Administrative Discharge - SrA [REDACTED]  
[REDACTED], 44 FS (PACAF), Kadena AB, Japan

1. BASIS: Lt Col [REDACTED] has initiated this administrative discharge action against SrA Jamie E. Sobota for Misconduct-Minor Disciplinary Infractions. The authority for this action is AFR 39-10, paragraph 5-46. The initiating commander has recommended a general discharge without probation and rehabilitation.

2. GOVERNMENT'S EVIDENCE: SrA [REDACTED] has engaged in misconduct consisting of minor disciplinary infractions, specifically:

a. On or about 24 Oct 91, he failed to go at the time prescribed to his appointed place of duty. As a result, he was verbally counseled on 24 Oct 91 (Tab 1-1).

b. On or about 8 Nov 91, his club account was delinquent and he displayed a lack of self-motivation. As a result, he was verbally counseled on 8 Nov 91 (Tab 1-2).

c. On or about 3 Jan 92, he failed to go at the time prescribed to his appointed place of duty. As a result, he was verbally counseled on 3 Jan 92 (Tab 1-3).

d. On or about 19 Feb 92 and on or about 20 Feb 92, he was derelict in the performance of his duties in that he failed to assist other airmen when instructed to do so. As a result, he was verbally counseled on 21 Feb 92 (Tab 1-4).

e. On or about 12 Oct 93, he failed to go at the time prescribed to his appointed place of duty. As a result, a Memo for Record was accomplished on the same day (Tab 1-5).

f. On or about 2 Dec 93, he failed to comply with AFR 35-10 in that he needed a haircut. Additionally, between on or about 3 Dec 93 and on or about 7 Jan 94, he failed to perform his duties in the proper manner and he was disrespectful towards two noncommissioned officers. As a result, he received a Letter of Reprimand on 18 Jan 94, an Unfavorable Information File was established and he was placed on the Control Roster (Tab 1-6).

g. On or about 21 Mar 94, he uttered checks to the Okinawa Area Exchange Service, totaling \$108.90, which were returned due to insufficient funds. As a result, he was scheduled for the Personal Financial Management Program on 8 Apr 94 and he received a Letter of Reprimand on 8 Apr 94 (Tab 1-7).

3. RESPONDENT'S EVIDENCE:

a. The respondent, a 21-year old airman, originally enlisted 2 Jul 90. His AQE scores are A-56, E-77, G-68, and M-91. This airman has received three evaluation reports. His most recent EPR which closed out on 24 Jan 94 rated him an overall 2. The airman is entitled to wear the medals, awards and ribbons outlined in the commander's recommendation.

b. The respondent was given the opportunity to consult with military defense counsel but has submitted a statement in response to this discharge action. SrA Sobota outlines his childhood and his career in the Air Force. He believes that he has served his country honorably and requests that his service be characterized as honorable.

4. ERRORS OR IRREGULARITIES: None noted.

5. DISCUSSION:

a. AFR 39-10, paragraph 5-46, authorizes the involuntary separation of airmen who engage in minor disciplinary infractions. SrA [REDACTED] eight instances of misconduct resulted in two Letters of Reprimand, establishment of an Unfavorable Information File, placement on the Control Roster, four verbal counselings and one Memo for Record. These documented instances of misconduct satisfy the requirements of the regulation and justify discharge.

b. Characterization of service as general is appropriate when significant negative aspects of an airman's conduct outweigh positive aspects of his or her military record. Based on the continual nature of his misconduct, characterization of SrA [REDACTED] service as general is appropriate.

c. I concur with 44 FS/CC that probation and rehabilitation is not appropriate for this airman. The unit has made numerous attempts to rehabilitate SrA Sobota. He did not take advantage of those opportunities. There is no reason to believe that further rehabilitative efforts would be effective.

6. OPTIONS: As special court-martial convening authority, you may:


a. Retain SrA [REDACTED], if you consider discharge unwarranted;

b. Direct a general discharge with or without probation and rehabilitation; or

c. Recommend that 5 AF/CC direct an honorable discharge with or without probation and rehabilitation.

RECOMMENDATION:

I recommend you direct a general discharge without probation and rehabilitation by signing the attached letter. The point of contact for this opinion is Capt Fournier.

  
Colonel, USAF  
Staff Judge Advocate, 18th Wing

Attachments:

1. Discharge Letter
2. Case File

MEMORANDUM FOR SrA [REDACTED]

FROM: 44 FS/CC  
Unit 5181  
APO AP 96368-5181

APR 29 1994

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for Misconduct-Minor Disciplinary Infractions under the provisions of 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, specifically:

a. On or about 24 Oct 91, you failed to go at the time prescribed to your appointed place of duty. As a result, you were verbally counseled on 24 Oct 91 (Tab 1-1).

b. On or about 8 Nov 91, your club account was delinquent and you displayed a lack of self motivation. As a result, you were verbally counseled on 8 Nov 91 (Tab 1-2).

c. On or about 3 Jan 92, you failed to go at the time prescribed to your appointed place of duty. As a result, you were verbally counseled on 3 Jan 92 (Tab 1-3).

d. On or about 19 Feb 92 and on or about 20 Feb 92, you were derelict in the performance of your duties in that you failed to assist other airmen when instructed to do so. As a result, you were verbally counseled on 21 Feb 92 (Tab 1-4).

e. On or about 12 Oct 93, you failed to go at the time prescribed to your appointed place of duty. As a result, a Memo for Record was accomplished on the same day (Tab 1-5).

f. On or about 2 Dec 93, you failed to comply with AFR 35-10 in that you needed a haircut. Additionally, between on or about 3 Dec 93 and on or about 7 Jan 94, you failed to perform your duties in the proper manner and you were disrespectful toward two noncommissioned officers. As a result, you received a Letter of Reprimand on 18 Jan 94, an Unfavorable Information File was established and you were placed on the Control Roster (Tab 1-6).

g. On or about 21 Mar 94, you uttered checks to the Okinawa Area Exchange Service, totaling \$108.90, which were returned due to insufficient funds. As a result, you were scheduled for the Personal Financial Management Program on 8 Apr 94 and you received a Letter of Reprimand on 8 Apr 94 (Tab 1-7).



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.

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 Capt [redacted] at the Area Defense Counsel at Building 1460 on 28 APR 94 at 1000 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 MAY 94 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 previously been scheduled for a medical examination on 7 Apr 94 at the Physical Exams Section, 18th Medical Group, Kadena AB, Japan.

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 in the orderly room.

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

[redacted signature]  
[redacted name], Lt Col, USAF  
Commander, 44th Fighter Squadron

Attachments:

- 1. 24 Oct 91, Verbal counseling; 8 Nov 91, Verbal counseling; 3 Jan 92, Verbal counseling; 21 Feb 92, Verbal counseling; 12 Oct 93, MFR; 18 Jan 94, LOR/UIF/CR; 8 Apr 94, LOR/PFMP/dishonored check notices
- 2. Airman's Receipt of Notification Letter
- 3. EPRs