

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]	<b>GRADE</b> AB	<b>AFSN/SSAN</b> [REDACTED]
--	--------------------	--------------------------------

<b>TYPE</b> <input checked="" type="checkbox"/> <b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b> <b>NAME OF COUNSEL AND OR ORGANIZATION</b> [REDACTED]	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b> AMERICAN LEGION
<b>YES</b> <input checked="" type="checkbox"/> <b>NO</b> <input type="checkbox"/>	

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

<b>ISSUES</b> A92.36, A92.02, A92.22, A94.54	<b>INDEX NUMBER</b> A67.30	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
		<b>1</b>	ORDER APPOINTING THE BOARD
<b>HEARING DATE</b> 17 APR 03	<b>CASE NUMBER</b> FD2002-0258	<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

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 Andrews AFB, MD.**  
  
**Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.**

<b>SIGNATURE OF RECEIVER</b> [REDACTED]	<b>SIGNATURE OF BOARD PRESIDENT</b> [REDACTED]
--	---

<b>INDORSEMENT</b>	<b>DATE: 17 APR 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

FD2002-0258

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, MD on April 17, 2003. Her friend, [REDACTED], was present to testify on her behalf.

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

**ISSUES:** The applicant was discharged with a General Discharge for misconduct, Pattern of Misconduct and Commission of a Serious Offense. The records indicated the applicant was convicted by court martial of conspiring to make and sign a false official document and signing official documents with intent to deceive for the purpose of fraudulently obtaining Basic Allowance for Quarters and Variable Housing Allowance at the with-dependent rate, and dereliction of duty for failing to report changes in her mother's status as required.

The applicant argues that this offense was an isolated incident in an otherwise good career, that the positive aspects of her service outweighed the negative, that her discharge was too harsh since she had already been severely punished for this misconduct, that medical problems impaired her ability to serve resulting in an approved medical discharge that was unfairly denied her and that her commander created a hostile work environment.

Evidence of the record shows that the applicant filed multiple false documents claiming dependency of her mother. The applicant's commander acted within his authority to recommend administrative discharge. The fact that the court-martial chose not to impose a punitive discharge did not preclude administrative discharge solely based on the conduct which resulted in conviction. Further, she was not improperly denied a medical discharge and the applicant's commander did not deny her the previously recommended disability discharge. Since there existed two bases for discharge, her case was properly reviewed as a dual action by the Air Force Personnel Board who recommended that she should be discharged administratively with a general characterization of service. The Discharge Review Board considered evidence and testimony regarding the circumstances surrounding the applicant's offenses as well as evidence confirming her excellent duty performance and community service while on active duty and opined that her characterization of discharge as general vice under other than honorable conditions took these factors into account. Her impressive post service accomplishments and community service reflect favorably on her and supported evidence of her overall excellent conduct while on active duty but did not alter the facts or serious nature of her offenses.

**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 or change of reason for 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 AB) (HGH SGT) MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 93/06/22 UP AFR 39-10, para 5-47a and 5-49c (Misconduct - Pattern of Misconduct and Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 68/08/06. Enlmt Age: 18 0/12. Disch Age: 24 10/12. Educ: AFQT: N/A. A-93, E-27, G-37, M-27. PAFSC: 64550 - Inventory Management Specialist. DAS: 87/09/16.

b. Prior Sv: (1) AFRes 86/08/20 - 87/05/10 (8 Mos 21 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 87/05/11 for 6 years. Svd: 6 Yrs 1 Mo 12 Das, of which AMS is 5 Yrs 7 Mos 27 Das (Ex: 5 Mos 15 Das lost time).

b. Grade Status: AB - 92/11/20 (GCMO No 10, 92/11/20)  
SGT - 89/10/24 (Appointment)  
SRA - 89/10/24  
A1C - 87/07/02

c. Time Lost: 16 Oct 92 - 28 Mar 93 (5 months 15 days).

d. Art 15's: None.

e. Additional: RIC, 21 NOV 91 - Failure to report to duty.  
RIC, 11 MAR 91 - Speeding ticket.  
RIC, 6 OCT 90 - Operating a vehicle without a valid driver's license.

f. CM: GCM Order No 10 - 1992 Nov 20 (Attached to Brief)

g. Record of SV: 87/05/11 - 88/05/17 Nellis AFB 8 (Annual)  
88/05/18 - 89/03/16 Nellis AFB 8 (CRO)  
89/03/16 - 90/03/15 Nellis AFB 4 (Annual)  
90/03/16 - 91/04/18 Nellis AFB 4 (Annual)  
91/04/19 - 92/04/18 Nellis AFB 3 (Annual)

(Discharged from Nellis AFB)

h. Awards & Decs: AFTR, AFLSAR, AFGCM, NCOPMEGR, NDSM, AFOUA (1OLC).

i. Stmt of Sv: TMS: (6) Yrs (4) Mos (18) Das  
TAMS: (5) Yrs (7) Mos (17) Das

0258

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/04/03.  
(Change Discharge to Honorable)

Issue 1: Medical records impaired my ability to serve (Exhibit 1)

Issue 2: My command abused its authority when it provided me with a sub standard discharge, denying me the medical discharge, which was already approved (Exhibit 1)

Issue 3: My record of promotion show I was generally a good service member (Exhibit 2)

Issue 4: My discharge was iniquitable because it characterized my service as having a history of misconduct when there was a one-time offense (Exhibit 9)

Issue 5: My record of court martial conviction represents an isolated offense and does not reflect my record in its entirety

Issue 6: There were other acts of merit (Exhibit 3)

Issue 7: My ability to serve was imparied as a result of a hostile work environment created by my commander

(See Attachments)

**ATCH**

1. Continuation of Issues.
2. Medical Documentation.
3. Enlisted Performance Reports.
4. Letters of References/Certificates of Appreciation.
5. VA Disability Rating.
6. College Transcripts.
7. Enrollment in Law School.
8. DD Form 214.
9. Teacher's License.
10. Teacher's Appraisals.
11. Letters of Reference.

02/09/17/cr

DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS USAF WEAPONS AND TACTICS CENTER (ACC)  
Nellis Air Force Base, Nevada 89191-6505

General Court-Martial Order  
No. 10

20 November 1992

SERGEANT [REDACTED] United States Air Force, 57th Component Repair Squadron, was arraigned at Nellis Air Force Base, Nevada, on the following offenses at a court-martial convened by this headquarters.

**CHARGE I: Article 107. Plea: G. Finding: G.**

**Specification 1:** Did, at or near Nellis Air Force Base, Nevada, on or about 31 July 1991, with intent to deceive, sign an official document, which statement was false and was then known by her to be so false. Plea: G. Finding: G.

**Specification 2:** Did, at or near Nellis Air Force Base, Nevada, by her to on or about 1 August 1991, with intent to deceive, sign an official document, which statement was false and was then known by her to be so false. Plea: G. Finding: G.

**Specification 3:** Did, at or near Nellis Air Force Base, Nevada, on or about 8 August 1988, with intent to deceive, sign an official document, which statement was false and was then known by her to be so false. Plea: NG. Finding: Withdrawn after arraignment.

**Specification 4:** Did, at or near Nellis Air Force Base, Nevada, on or about 26 May 1989, with intent to deceive, sign an official document, which statement was false and was then known by her to be so false. Plea: NG. Finding: Withdrawn after arraignment.

**Specification 5:** Did, at or near Nellis Air Force Base, Nevada, on or about 5 June 1990, with intent to deceive, sign an official document, which statement was false and was then known by her to be so false. Plea: NG. Finding: Withdrawn after arraignment.

Specification 6: Did, at or near Nellis Air Force Base, Nevada, on or about 30 April 1992, with intent to deceive, make an official statement, which statement was false and was then known by her to be so false. Plea: NG. Finding: Withdrawn after arraignment.

CHARGE II: Article 81. Plea: G. Finding: G.

Specification 1: Did, at or near Nellis Air Force Base, Nevada, on or about 1 August 1991, conspire to make and sign a false official statement. Plea: G. Finding: G.

Specification 2: Did, at or near Nellis Air Force Base, Nevada, on or about 8 August 1988, conspire to make and sign a false official statement. Plea: NG. Finding: Withdrawn after arraignment.

Specification 3: Did, at or near Nellis Air Force Base, Nevada, on or about 26 May 1989, conspire to make and sign a false official statement. Plea: NG. Finding: Withdrawn after arraignment.

Specification 4: Did, at or near Nellis Air Force Base, Nevada, on or about 5 June 1990, conspire to make and sign a false official statement. Plea: NG. Finding: Withdrawn after arraignment.

CHARGE III. Article 92. Plea: G. Finding: G.

Specification 1: Did, at or near Nellis Air Force Base, Nevada, between on or about 15 June 1990 and on or about 31 August 1991, was derelict in the performance of her duties. Plea: G. Finding: G.

Specification 2: Did, at or near Nellis Air Force Base, Nevada, between on or about 28 April 1989 and on or about 31 August 1991, was derelict in the performance of her duties. Plea: G. Finding: G.

#### SENTENCE

Sentence adjudged on 14 October 1992: Confinement for six months, forfeiture of \$250.00 pay per month for six months, and reduction to airman basic.

#### ACTION

In the case of SERGEANT [REDACTED] United States Air Force, 57th Component Repair Squadron, the sentence is approved and will be executed. The 3320th CRS

Centralized Correction System is designated for the purpose of confinement, and the confinement will be served therein or elsewhere as the Commander, 3320th CRS may direct.

[REDACTED]

FOR THE COMMANDER

[REDACTED]

## DISTRIBUTION:

1 - AB [REDACTED] (ACC), 57th CRS, Nellis AFB, NV  
89191-6023

1 - Lt Col [REDACTED] (MJ), USAF Judiciary, Western  
Circuit, Travis AFB, TX 94535-5002

1 - Capt [REDACTED] (TC), USAFWTC/JA, Nellis AFB, NV  
89191-6505

1 - Capt [REDACTED] (ATC), USAFWTC/JA, Nellis AFB, NV  
89191-6505

1 - Capt [REDACTED] (DC), USAF Judiciary, Area Defense  
Counsel, Nellis AFB, NV 89191-6543

1 - USAFWTC/CC, Nellis AFB NV 89191-7076

1 - 57 CRS/CC, Nellis AFB, NV 89191-6023

1 - 57 FW/CC, Nellis AFB, NV 89191-6063

1 - 554 SG/CC, Nellis AFB, NV 89191-5000

1 - 542 SPS/CC, Kirtland AFB, NM 87117-5000

1 - 542 SPS/SPOD, Kirtland AFB, NM 87117-5000

2 - 554 CPTS/FMFPM, Nellis AFB, NV 89191-6522

4 - 554 MSS/MSPQA, Nellis AFB, NV 89191-6518

1 - USAFWTC/JA, Nellis AFB, NV 89191-6505

10 - AFLSA/JAJM, Bolling AFB, DC 20332-6128

1 - DFAS-DE/JSSR, Denver, CO 80279-5000

1 - AFMPC/DPMDOM1A, Randolph AFB, TX 78150-5000

1 - Air Force Security Clearance Office, Wash DC 20330-6440

1 - 554 MSS/MSMRP, Nellis AFB, NV 89191-6518

1 - 554 MSS/MSMPR, Nellis AFB, NV 89191-6518

1 - 554 MSS/MSPUO, Nellis AFB, NV 89191-6518

9118D61-3129

## SYNOPSIS

1-1. Investigation initiated based upon information SUBJECT may be receiving with dependent rate Basic Allowance for Quarters (BAQ) by fraudulently claiming her mother as a dependent. One witness advised SUBJECT stated she told the Air Force her mother and father were separated. The witness advised SUBJECT's mother and father were not separated and to the best of his knowledge both were employed. Another witness advised SUBJECT's father was employed in Jul 89 and currently makes \$6.75 per hour. The payroll department of Union Plaza Hotel/Casino Las Vegas, NV, identified [REDACTED] as one of their employees, starting work on 13 Jun 90, making \$5.25 per hour, and having an average weekly gross income of \$210.00 per week. On her application for employment, she stated previous employment from 87-89. Her reason for leaving her previous job was "moving to Las Vegas". SUBJECT's father stated he and his wife moved to Las Vegas in Apr 89. He sold his house in California and paid cash for the house in Las Vegas. SUBJECT's name was added to the list of owners to make the purchase easier. His wife was employed on and off while living in California and is currently employed as a maid. He denied any periods of separation or marital problems. SUBJECT's mother advised she arrived in Las Vegas in Apr 89. She was employed Jun-Sep 90 before being laid off. She is currently unemployed and did not work while living in California. SUBJECT stated her mother started living with her in Sep 87/88. Her father arrived in May the following year. SUBJECT stated her mother works on and off but does not know her actual periods of employment. SUBJECT declined to provide any mortgage information regarding the house on Perliter Ave or Flagstaff Way. SUBJECT provided the Accounting and Finance Office (AFO) various documents to initiate with dependent rate BAQ. Review of the documents disclosed SUBJECT's parent [REDACTED] started living with her on "11/9/88". SUBJECT indicated her parents were "Separated, possible divorce". One document indicates [REDACTED] having a total income is \$0.00 and that SUBJECT's father does not support his spouse because he has "no job". In Aug 91, SUBJECT recertified her BAQ by stating she pays all of her mothers living expenses. She also stated her mother is not employed. Nellis AFB Staff Judge Advocate was briefed on this matter.



UNITED STATES )  
 )  
 V. )  
 )  
 [REDACTED] )  
 57th Component Repair Squadron )  
 Nellis AFB, Nevada )

STIPULATION OF FACT

It is hereby stipulated by and between trial counsel and defense counsel, with the express consent of the accused that:

1. The accused has been a member of the United States Air Force, Nellis Air Force Base, Nevada at all times relevant to the charges and specifications herein. The accused confirmed her enlistment in the Air Force on 11 May 1987 for a period of 6 years, was a member of the 57th Aircraft Generation Squadron, Nellis Air Force Base, Nevada, from 11 May 87 to 15 March 1990, and a member of the 57th Component Repair Squadron from 16 March 1990 until present. The accused was promoted Airman First Class on 2 Jul 87, to Senior Airman on 24 October 1989, and her date of rank as a Sergeant is 24 October 1989. Due to marriage, the accused changed her name from [REDACTED] effective 27 February 1992.

2. On 28 April 1989, [REDACTED] became joint tenants in the property at 2015 Perliter Avenue, North Las Vegas, Nevada. They usually lived there together until [REDACTED] purchased a property at 855 Flagstone Way, Las Vegas, Nevada on 28 June 1991. On 14 November 1991, the accused quit claimed her right to the property at Perliter for no consideration.

3. Specification 1 of Charge I: On or about 31 July 1991, at or near Nellis Air Force Base, Nevada, the accused signed an official document, to wit: Department of Defense Form 137, Application For Basic Allowance For Quarters For Members With Dependents, with the intent to deceive. The accused signed the form in order to have her mother, [REDACTED] declared as her dependent. The application was false in that it states in Block 4 that [REDACTED] monthly income from all sources is zero dollars and that the [REDACTED] lived at 855 Flagstone, Las Vegas, Nevada, or words to that effect. The accused knew at the time she signed the documents that they were false in that [REDACTED] was employed full-time since 13 June 1990 at Union Plaza Hotel and Casino in housekeeping, making an average monthly income of at least \$850.00, and that [REDACTED] lived with her husband [REDACTED] in a house that [REDACTED] jointly owned at 2015 Perliter Avenue in North Las Vegas, Nevada. By signing the document, the accused had the intent to mislead government officials into declaring her mother as her dependent and awarding with dependent rate Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA) to the accused, to which she was not otherwise entitled

4. Specification 2 of Charge I: On or about 1 August 1991, at or near Nellis Air Force Base, Nevada, the accused signed an official document, to wit: Air Force Form 1868, Dependency Statement - Parent, with intent to deceive. The statement was false in that it states that [REDACTED] is unemployed and has no income, that [REDACTED] has no income, that [REDACTED] permanently lives with the accused at the accused's address, and that the [REDACTED] does not own any assets, or words to that effect. The accused knew at the time she signed the documents that they were false in that [REDACTED] was employed full-time since 13 June 1990 at Union Plaza Hotel and Casino in Las Vegas, Nevada, making an average monthly income of at least \$850.00, that [REDACTED] was employed full-time since 27 July 1989 at American Fence Company in Las Vegas, Nevada, making an average monthly income of at least \$1100.00, that [REDACTED] lived with her husband in a house at 2015 Perliter Avenue, North Las Vegas, Nevada, a property that [REDACTED] jointly owned free of any mortgage or debt. By signing the document, the accused had the intent to mislead government officials into awarding with dependent rate BAQ and VHA to the accused, to which she was not otherwise entitled.

5. Specification of Charge II: On or about 1 August 1991, at or near Nellis Air Force Base, Nevada, the accused entered into an agreement with [REDACTED] to sign and make a false official document to personnel at the Nellis Air Force Base Accounting and Finance Office for the purpose of obtaining BAQ and VHA for the accused, to which she was not otherwise entitled. By the signing, they would commit the offense of signing a false official document, an offense under Article 107 of the Uniform Code of Military Justice. While the agreement continued to exist, and while the accused remained a party to the agreement, the accused and [REDACTED] performed the overt act of filling out and signing an official document, to wit: Air Force Form 1868, Dependency Statement - Parent, for the purpose of bringing about the object of the agreement. The AF Form 1868 was false as described in paragraph 3 above.

6. Specification 1 of Charge III: Between on or about 15 June 1990 and on or about 31 Aug 1991, the accused had a certain prescribed duty to immediately notify the Nellis Air Force Base Accounting and Finance Office or Consolidated Base Personnel Office of any changes in residency, financial circumstances, or dependency of [REDACTED]. The accused had knowledge of the duty because she received 2 notification letters from the Nellis Air Force Base Accounting and Finance Office on 11 August 1988 establishing the duty and she signed certifications that she would perform that duty on an AF Form 1985 dated 26 May 1989 and an AF Form 1985 dated 5 June 1990. Between on or about 15 June 1990 and on or about 31 Aug 1991, the accused was derelict in the performance of those duties in that she willfully failed to report to the Nellis Air Force Base Accounting and Finance Office or Consolidated Base Personnel Office that there was a change in the status of [REDACTED] in that [REDACTED] was employed full-time starting on 13 June 1990.

7. Specification 2 of Charge III: Between on or about 28 April 1989 and on or about 31 Aug 1991, the accused had a certain prescribed duty to immediately notify Nellis Air Force Base Accounting and Finance Office or Consolidated Base Personnel Office of any changes in residency, financial circumstances, or dependency of [REDACTED]. The accused had knowledge of the duty because she received 2 notification letters from the Nellis Air Force Base Accounting and Finance Office on 11 August 1988 establishing the duty and she signed certifications that she would perform that duty on an AF Form 1985 dated 26 May 1989 and an AF Form 1985 dated 5 June 1990. Between on or about 28 April 1989 and on or about 31 Aug 1991, the accused was derelict in the performance of those duties in that she willfully failed to report to the Nellis Air Force Base Accounting and Finance Office or Consolidated Base Personnel Office that there was a change in the status of [REDACTED] in that [REDACTED] lived in a house at 2015 Perliter Avenue, North Las Vegas, Nevada jointly owned by [REDACTED] and [REDACTED].

8. The Nellis Air Force Base Accounting and Finance Office administratively determined that the accused is indebted to the United States Government for erroneous receipt of BAQ and VHA. Based upon her derelictions of duty for the period of May 1989 to July 1991, the accused erroneously received \$8151.17 in BAQ and \$3093.96 in VHA. No BAQ or VHA was paid to the accused based upon her signing false official documents on 31 July 1991 and 1 August 1991. To date, \$2125.00 has been collected from the members pay in satisfaction of the debt.

8. The accused claimed [REDACTED] as a dependent on her federal tax returns for 1988 and 1989, but did not claim any dependents on her 1990 tax return signed on 23 March 1991.

[REDACTED]

Trial Counsel

[REDACTED]

Assistant Trial Counsel

[REDACTED]

Defense Counsel

[REDACTED]

Accused



**DEPARTMENT OF THE AIR FORCE**  
**HEADQUARTERS USAF WEAPONS AND TACTICS CENTER (ACC)**  
**NELLIS AIR FORCE BASE, NEVADA**

FROM: JA

8 Apr 93

SUBJ: Legal Review of Administrative Discharge Proceedings Under  
 AFR 39-10, Paras 5-47a and 5-49c, AB [REDACTED]

TO: 554 SG/CC

1. On 29 March 1993, the Commander, 57th Component Repair Squadron, recommended that the respondent, AB [REDACTED], be discharged under AFR 39-10, paragraphs 5-47a and 5-49c, for a pattern of misconduct and commission of a serious offense with a general discharge, without probation and rehabilitation (P&R). This case is being processed by notification procedure and is also being processed in conjunction with a medical discharge. The medical discharge action does not preclude approving discharge under AFR 39-10, but will delay its execution pending dual processing action at AFMPC and SECAF. As the special court-martial convening authority, you have the following alternatives:

- a. Direct that the respondent be retained;
- b. Recommend to the general court-martial convening authority that the respondent receive an honorable service characterization, with or without P&R;
- c. Direct that the respondent be discharged with a general service characterization, with or without P&R; or,
- d. Direct reinitiation of this case IAW Chapter 6, Section C, Board Hearing or Waiver, if you believe an under other than honorable conditions service characterization is warranted.

2. Facts:

- a. For the Government:

(1) A preponderance of the evidence establishes that the following incidents occurred during the current enlistment:

Date	Incident	Action
31 Jul 91	Signed Official Document With Intent to Deceive	Court-Martial Conviction
1 Aug 91	Signed Official Document With Intent to Deceive	Court-Martial Conviction

15 Jun 90 -	Dereliction of Duty in	Court-Martial
31 Aug 91	Failing to Report Changes in Financial Circumstances, Resi- dency, & Dependency of Anne Dean	Conviction
28 Apr 89 -	Dereliction of Duty in	Court-Martial
31 Aug 91	Failing to Report Changes in Financial Circumstances, Resi- dency, & Dependency of Anne Dean	Conviction
21 Nov 91	Failed to Go	Counselled
18 Feb 91	Cited for Speeding	Counseled
6 Oct 90	Cited for Operating Vehicle for Without a Valid Drivers License	

(2) The preponderance of the evidence does not establish that respondent pretended to be another person during a telephone conversation with MSgt [REDACTED] on 21 Nov 91. Statements provided by respondent which dispute this allegation were omitted from the counseling form submitted with the recommendation for discharge. Considering the weak evidence establishing the impersonation and the failure of the unit to maintain statements offered by the respondent, this allegation should not be considered.

(3) All of the established incidents may be considered to determine whether the respondent is subject to discharge, whether she should be discharged, and if discharged, the character of service.

b. For the Respondent:

(1) The respondent is a 24-year-old Airman Basic with over five years of active military service.

(2) She has received the following performance ratings (starting with the most recent EPR): 3, 4, 4, and under the old system 8 and 8. She is entitled to wear the AF Good Conduct Medal, National Defense Service Medal, AF Longevity Service Award, NCO Professional Military Education Ribbon, AF Outstanding Unit Award (1 Device) and AF Training Ribbon. Her test scores are: Admin-93, Elec-27, Gen-37, Mech-27.

(3) She has submitted a written statement for your consideration. In her statement, respondent:

(a) Admits the crimes for which she was convicted and asks not to be punished again for them.

(b) Disputes the allegation contained in para 2f of the commander's letter of notification. This paragraph alleges respondent failed to go and pretended to be another person during a telephone conversation with MSgt [REDACTED] concerning that failure to go. Respondent contends that she attended court on that date and that she had previously notified MSgt [REDACTED] of this commitment. She also denies pretending to be another person on the phone. She claims to have attached to the form statements by her, the person she was alleged to have impersonated, and a person from the court. These statements were, however, omitted from the letter of counseling which was submitted for this discharge action.

(c) Disputes the allegation contained in para 2h of the commander's letter of notification. This allegation alleges respondent was cited for operating a motor vehicle without a valid drivers' license on 6 Oct 90. Respondent contends that she was licensed by California at the time, but did not have her license in her possession because she had lost her wallet.

(d) Describes her personal background.

(e) Requests she be allowed her medical discharge which is pending review.

3. Errors and Irregularities: There are no errors or irregularities prejudicial to the substantive rights of the respondent.

4. Conclusions:

a. The file has been prepared in substantial compliance with AFR 39-10 and is legally sufficient.

b. A member is subject to discharge for commission of a serious offense for which a punitive discharge would be authorized. A member is also subject to discharge for a pattern of misconduct in the current enlistment which consists of discreditable involvement with military or civil authorities, including acts for which the member was or might have been punished under the UCMJ. If more than one reason supports discharge, the convening authority determines which basis is the primary reason for discharge.

(1) The fact that a court-martial chooses not to impose a punitive discharge does not preclude administrative discharge solely based on the conduct which resulted in conviction. The only limitation in such cases is on the characterization of service. Respondent committed and was convicted of several offenses, each of which carries as authorized punishment a punitive discharge. Therefore, discharge for commission of a serious offense is appropriate.

(2) Respondent's conviction in conjunction with additional prior misconduct support discharge for a pattern of misconduct. The disputed allegations of failure to go and driving without a license are supported by a preponderance of the evidence. Regarding the allegation of failure to go, MSgt [REDACTED] apparently had not authorized respondent's absence from work and, therefore, the fact that she attended court is no defense. Regarding the allegation of a citation for driving without a valid drivers' license, respondent did not have a drivers' license in her possession and was cited for that failure. This conduct may be given whatever weight you deem appropriate. Under the circumstances, discharge for a pattern of misconduct is appropriate.

c. A general characterization of service is warranted if an airman's service has been honest and faithful but significant negative aspects of the airman's conduct or performance outweigh other aspects of the airman's military record. Discharge under other than honorable conditions (UOTHC) may be appropriate when the reason for separation constitutes a significant departure from the conduct expected of airmen. An airman's discharge may not, however, be characterized as UOTHC when the sole basis for discharge is a serious offense that resulted in conviction by court-martial that did not impose a punitive discharge. Review of the respondent's military record indicates that the negative aspects of her duty performance outweigh the positive aspects of her military record. Conduct aside from that resulting in conviction does not, however, amount to a significant departure from expected conduct. Therefore, a general characterization is appropriate.

d. The commander does not recommend P&R. The deceitful nature of the respondent's offenses and her prior misconduct are relevant in determining whether P&R is appropriate.

5. Recommendations: I recommend that you approve the respondent's discharge from the United States Air Force with a general discharge, without P&R. I also recommend that you designate commission of a serious offense as the primary reason for discharge.

[REDACTED]  
[REDACTED] Capt, USAF  
Assistant Staff Judge Advocate

I concur.

[REDACTED]  
[REDACTED]  
Colonel, USAF  
Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE  
57TH COMPONENT REPAIR SQUADRON (ACC)  
NELLIS AIR FORCE BASE, NEVADA

FD2002-0258

MAR 29 1993

FROM: 57 CRS/CC

SUBJ: Notification Letter

TO: AB [REDACTED] 57 CRS

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct and commission of a serious offense. The authority for this action is AFR 39-10, paragraphs 5-47a and 5-49c. 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 or about 31 Jul 91, you did, with intent to deceive, sign an official document for the purpose of obtaining quarters allowance, for which you were convicted by court-martial on 14 Oct 92;

b. On or about 1 Aug 91, you did, with intent to deceive, sign an official document for the purpose of obtaining quarters allowance, for which you were convicted by court-martial on 14 Oct 92;

c. Between on or about 15 Jun 90 and on or about 31 Aug 91, you were derelict in the performance of your assigned duty to report changes in financial circumstances, residency, or the dependency of [REDACTED] for which you were convicted by court martial on 14 Oct 92;

d. Between on or about 28 Apr 89 and on or about 31 Aug 91, you were derelict in the performance of your assigned duty to report changes in financial circumstances, residency, or the dependency of [REDACTED] for which you were convicted by court martial on 14 Oct 92;

e. On or about 21 Nov 91, you failed to report to your assigned place of duty for which you were formally counseled on 21 Nov 91;

f. On or about 21 Nov 91, you pretended to be another person when called on the phone by MSgt [REDACTED] about your absence from work for which you were formally counseled on 21 Nov 91;

g. On or about 18 Feb 91, you did, while on Nellis AFB, Nevada, receive a traffic citation for exceeding the speed limit for which you were formally counseled on 11 Mar 91; and,

h. On or about 6 Oct 90, you received a traffic citation for operating a motor vehicle without a valid state drivers' license.



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 legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel at Bldg 43 on 30 Mar 93 at 1400 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 1 APR at 1215 hours 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 at the 554th Medical Group, Physical Exam Section on 31 MAR. 93 AT 0700 HRS.

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 your Unit Orderly Room.

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

  
Commander

9 Atchs

1. AFLSA/JAJM Ltr, 29 Jan 93
2. Court-Martial Order No. 10, 20 Nov 92
3. Stipulation of Fact
4. Synopsis of OSI Report
5. AF Form 174, 21 Nov 91
6. AF Form 174, 11 Mar 91
7. DD Form 1408, 18 Feb 91
8. DD Form 1408, 6 Oct 90
9. Airman's Receipt of Notification Ltr