

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE A1C	AFSN/SSAN [REDACTED]
TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW	
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NO		
	X		
MEMBERS SITTING		VOTE OF THE BOARD	
		HON	GEN
		UOTHC	OTHER
		DENY	
[REDACTED]			X
[REDACTED]			X
[REDACTED]			X
[REDACTED]			X
[REDACTED]			X
ISSUES A02.17, A94.05, A94.01	INDEX NUMBER A67.30	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
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
			TAPE RECORDING OF PERSONAL APPEARANCE HEARING
HEARING DATE 03-01-03	CASE NUMBER FD2002-0300		
<small>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</small>			
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.			
SIGNATURE OF RECORDER [REDACTED]		SIGNATURE OF BOARD PRESIDENT [REDACTED]	
ENDORSEMENT		DATE: 03-01-06	
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

FD2002-0300

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 the applicant substantiates an impropriety or inequity that would justify an upgrade of the discharge to honorable.

Issues. Applicant was discharged for misconduct, commission of a serious offense. Member, who was a Security Forces specialist, received an Article 15 for failure to report information of alleged Uniform Code of Military Justice violations by another SF member, and for possessing an expired Armed Forces ID card. Applicant contends he had inadequate representation, and that another SF member with similar offenses was allowed to keep his grade and cross-train. The board noted that member was recommended for an Under Other Than Honorable Conditions (UOTHC) discharge and after consulting his military defense counsel, submitted a waiver to his right to an administrative board hearing conditioned upon receipt of no less than an under honorable conditions (general) discharge. His conditional waiver was accepted and a general discharge was issued pursuant to his request. The Board concluded member's misconduct was an extremely significant departure from conduct expected of all military members, and not compatible with Air Force standards. In fact, for Security Forces (SF) personnel, failure to report potential crimes of other military members is one of the worst forms of dereliction of duty an SF member can commit. The record review indicated that member had more than just knowledge of the alleged offenses of the other SF member, which involved a minor dependent daughter of yet a third SF member, but was possibly in some way further implicated in the offenses, the degree to which the Board could not ascertain. The Board could find nothing in the record to substantiate applicant's contentions. The Board could find no inequity or impropriety on which to suggest a basis 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

[REDACTED]

(Former A1C) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 88/03/24 UP AFR 39-10, para 5-49d (Misconduct - Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 62/03/19. Enlmt Age: 18 11/12. Disch Age: 26 0/12. Educ: HS DIPL. AFQT: N/A. A-64, E-41, G-41, M-40. PAFSC: 81150 - Security Specialist. DAS: 85/08/05.

b. Prior Sv: (1) AFRes 81/02/24 - 81/09/30 (7 Mos 7 Days) (Inactive).

(2) Enld as AB 81/10/01 for 6 yrs. Svd: 5 Yrs 0 Mos 1 Das. all AMS. AIC - 81/11/17. SRA - (APR Indicates: 84/01/27-85/01/26). SGT - (APR Indicates: 85/01/27-85/06/10). APRs: 9,9,9,9,9,9.

3. **SERVICE UNDER REVIEW:**

a. Reenld as SGT 86/10/01 for 6 yrs. Svd: 1 Yr 5 Mos 24 Das, all AMS.

b. Grade Status: A1C - 88/02/02 (Article 15, 88/02/02)
SRA - 87/11/17 (Vacation of NCO Status)

c. Time Lost: None.

d. Art 15's: (1) 88/02/02, Tyndall AFB, FL - Article 92 & 134. You, who knew of your duties, on or about 14 Oct 87, were derelict in the performance of your duties in that you willfully failed to report information concerning an alleged violation of the Uniform Code of Military Justice, by -----, as it was your duty to do. Further investigation reveals, you, did, on or about 15 Oct 87, possess an expired DD Form 2AF, Identification Card in violation of Air Force Regulation 30-20 (18 USC S 701). Reduced to the grade of A1C, ordered to forfeit \$100 pay, and to perform extra duties for 14 days. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 86/06/11 - 87/04/02 Tyndall AFB 9 (CRO)
87/04/03 - 87/11/30 Tyndall AFB 8 (CRO)

(Discharged from Tyndall AFB)

h. Awards & Decs: AFTR, AFGCM (1OLC), AFLSR, AFOSTR, SAEMR, AFOUA, AFAM.

i. Stmt of Sv: TMS: (7) Yrs (1) Mo (1) Das
TAMS: (6) Yrs (5) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/10.
(Change Discharge to Honorable)

Issues: My issue is that I believe (sic) received inadequate representation. I only met my area defense counsel once and that was to sign the form that is presented with my records. All other times it was by telephone and he always made the discussion short and brief and he always would steer me towards discharge proceedings. I was young and scared and didn't know of no other alternatives other than to get things over with as soon as possible.

SSgt ----- was also caught up with -----via telephone sex talk with her, but he was offered a career change with no reduction in grade. SSgt ----- has also met with ----- which was stated in her diary but he managed to keep his grade and career.

All I really want is to ask for forgiveness. I learned a valuable lesson behind those incidents. It changed my life forever. I wanted so badly to make a career in the Air Force. It took almost a year to get over the depression and anger. I have lived a good law abiding life, but this discharge has haunted me for years. Time heals all wounds. Please find in your hearts to forgive me and render a just verdict.

ATCH

1. DD Form 214.
2. Discharge Case File.

02/10/23/cr



FD2002-0300

DEPARTMENT OF THE AIR FORCE

HEADQUARTERS FIRST AIR FORCE (TAC)
LANGLEY AIR FORCE BASE VA 23665-5009

REPLY TO
ATTN OF: JA

14 March 1987

SUBJECT: Legal Review of AFR 39-10 Action - [REDACTED]
SPS, Tyndall AFB FL

TO: DP
CV
IN TURN

1. I have reviewed the attached AFR 39-10 separation action concerning [REDACTED] and deem it legally sufficient.
2. BACKGROUND: On 28 September 1987, the 325 SPS/CC initiated this action to separate [REDACTED] for commission of a serious offense pursuant to AFR 39-10, paragraph 5-49d. He recommended an under other than honorable conditions discharge without probation and rehabilitation (P&R). After consulting with his military defense counsel, [REDACTED] submitted a conditional waiver of his right to a board hearing, contingent upon receiving a general discharge. The 325 CSG/CC recommends acceptance of the conditional waiver and separation of [REDACTED] with a general discharge without P&R. I concur.
3. SUMMARY OF THE EVIDENCE: On 2 February 1988, [REDACTED] received nonjudicial punishment for the offenses of willful dereliction of duty by failing to report information on 14 October 1987 pertaining to the alleged offenses of adultery and carnal knowledge by [REDACTED] (also of the Security Police Squadron), and of violating AFR 30-20 on 15 October 1987 by wrongfully possessing an expired Armed Forces Identification card. For these two offenses he was reduced to the grade of A1C, ordered to forfeit \$100.00 of his pay, and given 14 days extra duties. Each of these two offenses, if tried by court-martial, carries a maximum punishment which includes a punitive discharge. [REDACTED] is almost 26 years old, has over 6 years of continuous active service, and has 8 APRs with overall ratings of 9,9,9,9,9,9,9, and 8. The "8" was the most recent. He is entitled to wear the Small Arms Expert Marksmanship Ribbon with one device (rifle), the Air Force Overseas Long Tour and Short Tour Ribbons, and the Air Force Training Ribbon.
4. DISCUSSION: The evidence warrants separation. Each of the two offenses for which [REDACTED] was punished makes him subject to discharge under AFR 39-10 and, together, they render him unsuitable for further military service. After balancing his misconduct against his outstanding service record, I believe a general discharge certificate would appropriately characterize his time in the Air Force since the negative aspects outweigh the positive. Probation and rehabilitation are not warranted because of the serious nature of the offenses for which Moore, a security policeman, was punished. He must be medically cleared for separation prior to execution of the discharge.

Readiness is our Profession

5. RECOMMENDATION: I recommend that you accept the conditional waiver submitted by [REDACTED] and direct his discharge with a general discharge certificate, without P&R, in accordance with AFR 39-10, paragraph 5-49d.

[REDACTED], USAF
Staff Judge Advocate

1 Atch
Case File - [REDACTED]



DEPARTMENT OF THE AIR FORCE

325TH SECURITY POLICE SQUADRON (TAC)
TYNDALL AIR FORCE BASE FL. 32403-5012

FD2002-0300



REPLY TO
ATTN OF: CC

19 FEB 1988

SUBJECT: Letter of Notification - Board Hearing

TO: [REDACTED], [REDACTED] 325 SPS

1. I am recommending your discharge from the United States Air Force for misconduct according to AFR 39-10, under the provisions of paragraph 5-49d. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. My reason for this action is your commission of two serious offenses for which punitive discharges are authorized under the UCMJ. Those offenses are your willful dereliction of duty on 14 Oct 87, and your wrongful possession of an expired ID Card on 15 Oct 87.
3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive a general discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.
4. You have the right to:
 - a. Consult legal counsel.
 - b. Present your case to an administrative discharge board.
 - c. Be represented by legal counsel at a board hearing.
 - d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
 - e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.
5. You completed a medical examination on 10 Feb 88, USAF Hospital, Tyndall AFB FL.

Readiness is our Profession

6. Military legal counsel, [REDACTED], Eglin AFB, has been obtained to assist you. An appointment has been scheduled for you to consult him on 24 Feb 88 at 0730-1630. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statement to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

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 orderly room.

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

[REDACTED], USAF
Commander

4 Atch

1. AF Form 3070 (27 Jan 88)
2. DD Form 1569 (15 Oct 87)
3. Extract, AFR 125-3
4. Extract, AFOSI Report