

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN		
		AB			
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			
YES	NO				
	X				
		ADDRESS AND OR ORGANIZATION OF COUNSEL			
		VOTE OF THE BOARD			
MEMBERS SITTING		HON	GEN	UOTHC	OTHER
					DENY
					X
					X
					X
					X
					X
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD	
A92.21		A67.90		1 ORDER APPOINTING THE BOARD	
				2 APPLICATION FOR REVIEW OF DISCHARGE	
				3 LETTER OF NOTIFICATION	
HEARING DATE		CASE NUMBER		4 BRIEF OF PERSONNEL FILE	
26 FEB 03		FD2002-0387		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 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.					
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT		
INDORSEMENT			DATE: 26 FEB 03		
TO:			FROM:		
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			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

FD02-0387

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 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 does not contest the discharge; he merely wants it upgraded in order to receive his G.I. Bill benefits. The record indicates the applicant received two Article 15's for wrongfully receiving or concealing government tools, which he knew had been stolen, and, stealing motor oil, gasoline, a shovel and ice pick. The second Article 15 was for failure to go. In addition, he received seven Letters of Reprimand for failure to make satisfactory progress in the Weight Management Program (twice), damaged a government vehicle through negligence, civilian conviction for writing bad checks, dereliction of duty (twice), and failure to go. And, he received eight Records of Individual Counseling for reporting for mobility without proper equipment, acting in an unprofessional manner, negligent in the performance of duties, dereliction of duty (twice), late for work (three times), leaving a place of duty without authority, failure to complete assigned duties, and for receiving a traffic ticket. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety that would warrant an upgrade. 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. 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

[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 22 JUL 94 UP AFR 39-10, para 5-47b (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 28 Nov 71. Enlmt Age: 19 2/12. Disch Age: 22 7/12. Educ: HS DIPL. AFQT: N/A. A-85, E-57, G-59, M-61. PAFSC: 3E432 - Liquid Fuel Systems Maintenance Apprentice. DAS: 5 July 91.

b. Prior Sv: (1) AFRes 22 Feb 91 - 10 Mar 91 (17 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 11 Mar 91 for 4 yrs. Svd: 3 Yrs 4 Mo 12 Das, all AMS.

b. Grade Status: AB - 5 Jul 94 (Article 15, 5 Jul 94)
A1C - 5 Dec 92
AMN - 11 Sep 91

c. Time Lost: None.

d. Art 15's: (1) 5 Jul 94, Minot AFB, ND - Article 121 & 134. You, did, on or about 13 May 93, wrongfully receive or conceal, government tools of a value of about \$100.00, the property of 5th Civil Engineering Squadron, Minot AFB, which property, you then knew, had been stolen. You, did, between on or about 1 Apr 93, and on or about 31 Dec 93, steal motor oil and gasoline, military property, of a value of about \$25.00, the property of 5th Civil Engineering Squadron, Minot AFB. You, did, between on or about 1 Apr 93 and on or about 31 Dec 93, steal a shovel and ice pick/breaker, military property, of a value of about \$24.00, the property of 5th Civil Engineering Squadron, Minot AFB. Reduction to AB. (Appeal/Denied) (No mitigation)

(2) 23 Sep 93, Minot AFB, ND - Article 86. You, did, on or about 13 Sep 93, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to Amn, 14 days extra duty, and 14 days restriction. (No appeal) (No mitigation)

e. Additional: LOR, 29 MAR 94 - Failure to make satisfactory progress in Weight Management Program.

LOR, 20 JUN 94 - Failure to make satisfactory progress in Weight Management Program.
 LOR, 06 JAN 94 - Damaged government vehicle through negligence.
 LOR, 13 SEP 93 - Civilian conviction for bad checks.
 LOR, 02 AUG 93 - Dereliction of duty.
 RIC, 23 JUL 93 - Late to work.
 RIC, 16 JUL 93 - Late to work.
 RIC, 16 APR 93 - Leaving place of duty without authority and failure to complete assigned duties.
 RIC, 26 MAR 93 - Late to work.
 RIC, 13 OCT 92 - Dereliction of duty.
 RIC, 17 SEP 92 - Negligent in the performance of duties.
 LOR, 03 JUN 92 - Dereliction of duty.
 LOR, 29 APR 92 - Failure to go.
 RIC, 30 MAR 92 - Acting in an unprofessional manner.
 5 CES/CCE LTR, 3 DEC 91 - Missed appointment.
 DD 1408, 25 OCT 92 - Traffic ticket.
 RIC, 19 OCT 92 - Reporting for mobility without proper equipment.

f. CM: None.

g. Record of SV: 11 Mar 91 - 10 Nov 92 Minot AFB 3 (Initial)
 11 Nov 92 - 10 Nov 93 Minot AFB 3 (Annual)

(Discharged from Minot AFB)

h. Awards & Decs: AFTR, NDSM, AFOUA 2/1 DEV.

i. Stmt of Sv: TMS: (3) Yrs (5) Mos (1) Das
 TAMS: (3) Yrs (4) Mos (12) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 7 Sep 02.
 (Change Discharge to Honorable)

Issue 1: It has been 8 yrs since my discharge from the Air Force and I am at a point in my life where I'd like to start making some changes/improvements in my life. Since discharge my wife and I have had a wonderful marriage and have our family complete with (2) beautiful children. I am now at a point where I would like to improve myself by continuing my education to obtain better paying jobs in a Field that I would enjoy.

In order to do this it is very important to me and my family that you grant me the upgrade of my discharge to Honorable. The first year of my military term I elected to have \$1200 deducted from my pay so that I could utilize the GI Bill.

Please grant me this important opportunity to improve my life as well as that of my family's. Thank you.

FD2002-0387

ATCH
None.

13DEC02/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 5TH BOMB WING (ACC)
MINOT AIR FORCE BASE, NORTH DAKOTA

18 July 1994

MEMORANDUM FOR CC

FROM: JA

SUBJECT: Legal Review - AFR 39-10, Paragraph 5-47b Discharge,
[REDACTED]

1. I have reviewed the administrative discharge action against [REDACTED] and find it legally sufficient to support his discharge from the Air Force.
2. BASIS FOR THE ACTION: Administrative action against [REDACTED] is based on a pattern of misconduct pursuant to AFR 39-10, Section H, paragraph 5-47b (Conduct prejudicial to good order and discipline). The pattern of misconduct consists of the following acts:
 - a. On or about 13 May 93, he wrongfully received or concealed government tools belonging to the 5th Civil Engineering Squadron, of a value of about \$100.00. On or about 1 Apr 93 and on or about 31 Dec 93, he stole motor oil and gasoline, military property, of a value of about \$25.00, and he stole a shovel and ice pick/breaker, also military property, of a value of about \$24.00. For these acts he received an Article 15, 5 Jul 94.
 - b. On or about 28 Mar 94 and on or about 2 Jun 94, he failed to make satisfactory progress for the USAF Weight Management Program, for which he received Letters of Reprimand (LOR), 29 Mar 94 and 20 Jun 94, with Unfavorable Information File entries.
 - c. On or about 23 Dec 93, he damaged a government vehicle through negligence, for which he received an LOR, 6 Jan 94, which was entered into his UIF and he was extended on the Control Roster.
 - d. On or about 13 Sep 93, he failed to go to his appointed place of duty at the prescribed time, for which he received an Article 15, 24 Sep 93.
 - e. On or about 7 Sep 93, he was arrested and later plead guilty in a civilian court for issuing a non-sufficient funds (NSF) check, for which he received an LOR, 13 Sep 93, and a UIF was established.
 - f. On or about 31 Jul 93 to 2 Aug 93, he was derelict in the performance of his duties, for which he received an LOR, 2 Aug 93.
 - g. On or about 23 Jul 93, he failed to go to his appointed place of duty at the prescribed time, for which he received a Record of Counseling (ROC), 23 Jul 93.
 - h. On or about 16 Jul 93, he failed to go to your appointed place of duty at the prescribed time, for which he received an ROC, 16 Jul 93.

i. On or about 15 Apr 93, he left his place of duty without proper authority and failed to complete his assigned duties, for which he received an ROC, 16 Apr 93.

j. On or about 26 Mar 93, he failed to go to his appointed place of duty at the prescribed time, for which he received an ROC, 26 Mar 93.

k. On or about 2 Oct 92 to 7 Oct 92, he was derelict in the performance of his duties, for which he received an ROC, 13 Oct 92.

l. On or about 11 Sep 92, he was negligent in the performance of his duties--he failed to secure equipment issued, for which he received an ROC, 17 Sep 92.

m. On or about 2 Jun 92, he was derelict in the performance of his duties, for which he received an LOR, 3 Jun 92, and placed on Control Roster.

n. On or about 28 Apr 92, he failed to go to his appointed place of duty at the prescribed time, for which he received an LOR, 29 Apr 92, and a UIF was established.

o. On or about 30 Mar 92, he received an ROC for acting in an unprofessional manner.

p. On or about 19 Oct 91, he reported for mobility without the proper and necessary equipment, for which he received an ROC, 19 Oct 91.

3. MATTERS SUBMITTED BY THE RESPONDENT: [REDACTED] met with counsel on 6 Jul 94 and failed to submit statements on his own behalf.

4. DISCUSSION:

a. In deciding whether [REDACTED] is to be discharged, you must first determine if there is a basis for discharge. In determining whether there is a basis for discharge, you may only consider the misconduct described in paragraph 2. I believe the facts documented in this paragraph show that AB [REDACTED] engaged in a pattern of misconduct which is a basis for discharge under AFR 39-10, paragraph 5-47b.

b. Next, you must determine whether [REDACTED] should be discharged. You may consider [REDACTED] entire military record when making this determination. [REDACTED] repeated misconduct since Oct 91, warrants discharge.

c. AB [REDACTED] has 3 years and 4 months active duty service. His current enlistment began on 11 Mar 91. The respondent received two EPR evaluations in this enlistment. The overall ratings were: 3, 10 Nov 93; 3, 10 Nov 92

d. On 15 Jul 94, the squadron commander recommended that [REDACTED] be discharged with a general discharge. After reviewing the case file, I concur with that recommendation.

5. ERRORS AND IRREGULARITIES: None.

6. CHARACTERIZATION OF SERVICE: If you determine that [REDACTED] should be discharged, you must also determine the characterization of discharge. Characterization of service will be determined solely by the member's military record during the current enlistment. An under other than honorable conditions discharge is appropriate when the airman's conduct is a serious departure from the standards expected of airmen. (A recommendation for an under other than honorable conditions discharge carries with it the right to an administrative discharge board). If the case file does not demonstrate such a serious departure from expected standards, but significant negative aspects of an airman's conduct outweigh the positive aspects, then a general discharge is appropriate. An honorable discharge is appropriate when the quality of member's service record generally has met Air Force standards of acceptable conduct and performance of duty, or has been so meritorious that any other characterization would be clearly inappropriate. In this case, [REDACTED] misconduct has not been so deleterious as to warrant an under other than honorable conditions discharge. However, [REDACTED] repeated misconduct, when balanced with his military record during this current enlistment, clearly justifies the awarding of a general discharge.

7. PROBATION AND REHABILITATION: If you decide that discharge is warranted, you must also decide if probation and rehabilitation (P&R) is appropriate. [REDACTED] commander does not recommend P&R. [REDACTED] has failed to respond to repeated rehabilitative measures. He has little concern for military standards and seems unwilling to change his behavior. Accordingly, P&R should not be offered in this case.

8. ACTION WHICH MAY BE TAKEN: As the SPCM authority, your options are:

- a. Retain [REDACTED] if the evidence does not support discharge; or,
- b. Return the case to the squadron for processing under a more appropriate provision; or,
- c. Return the case to the squadron to reinitiate the action to make him entitled to a discharge board hearing, if you believe that an under other than honorable conditions discharge may be warranted; or,
- d. Discharge [REDACTED] with a general discharge, with or without suspension for probation and rehabilitation; or,
- e. Forward your recommendation with specific reasons for an honorable discharge, with or without suspension for P&R, to 8 AF/CC.

9. RECOMMENDATION: I recommend that you separate [REDACTED] with a general discharge without suspension for probation and rehabilitation. If you concur, please sign the letter at attachment 1. I further recommend that after discharge, [REDACTED] be barred from entering the base. If you agree, please sign the debarment letter at attachment 3.

[REDACTED] USAF
Staff Judge Advocate

Attachments:

1. Letter
2. Case File
3. Debarment Letter



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 5TH SUPPORT GROUP (ACC)
MINOT AIR FORCE BASE, NORTH DAKOTA

FD 2002-0387

5 July 1994

MEMORANDUM FOR AB [REDACTED]
5th Civil Engineering Squadron

FROM: 5 CES/CC

SUBJECT: Letter of Notification - AFR 39-10, Para 5-47b

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, conduct prejudicial to good order and discipline. The authority for this action is AFR 39-10, paragraph 5-47b. If my recommendation is approved, your discharge will be characterized as general or honorable. I am recommending that your service be characterized as general.
2. My reasons for this action are:
 - a. On or about 13 May 93, you wrongfully received or concealed government tools belonging to the 5th Civil Engineering Squadron, of a value of about \$100.00. On or about 1 Apr 93 and on or about 31 Dec 93, you stole motor oil and gasoline, military property, of a value of about \$25.00, and you stole a shovel and ice pick/breaker, also military property, of a value of about \$24.00. For these acts you received an Article 15, 5 Jul 94.
 - b. On or about 28 Mar 94 and on or about 2 Jun 94, you failed to make satisfactory progress for the USAF Weight Management Program, for which you received Letters of Reprimand (LOR), 29 Mar 94 and 20 Jun 94, with Unfavorable Information File entries.
 - c. On or about 23 Dec 93, you damaged a government vehicle through negligence, for which you received an LOR, 6 Jan 94, which was entered into your UIF and you were extended on the Control Roster.
 - d. On or about 13 Sep 93, you failed to go to your appointed place of duty at the prescribed time, for which you received an Article 15, 24 Sep 93.
 - e. On or about 7 Sep 93, you were arrested and later plead guilty in a civilian court for issuing a non-sufficient funds (NSF) check, for which you received an LOR, 13 Sep 93, and a UIF was established.
 - f. On or about 31 Jul 93 to 2 Aug 93, you were derelict in the performance of your duties, for which you received an LOR, 2 Aug 93.
 - g. On or about 23 Jul 93, you failed to go to your appointed place of duty at the prescribed time, for which you received a Record of Counseling (ROC), 23 Jul 93.
 - h. On or about 16 Jul 93, you failed to go to your appointed place of duty at the prescribed time, for which you received an ROC, 16 Jul 93.

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i. On or about 15 Apr 93, you left your place of duty without proper authority and failed to complete your assigned duties, for which you received an ROC, 16 Apr 93.

j. On or about 26 Mar 93, you failed to go to your appointed place of duty at the prescribed time, for which you received an ROC, 26 Mar 93.

k. On or about 2 Oct 92 to 7 Oct 92, you were derelict in the performance of your duties, for which you received an ROC, 13 Oct 92.

l. On or about 11 Sep 92, you were negligent in the performance of your duties--you failed to secure equipment issued, for which you received an ROC, 17 Sep 92.

m. On or about 2 Jun 92, you were derelict in the performance of your duties, for which you received an LOR, 3 Jun 92, and placed on Control Roster.

n. On or about 28 Apr 92, you failed to go to your appointed place of duty at the prescribed time, for which you received an LOR, 29 Apr 92, and a UIF was established.

o. On or about 30 Mar 92, you received an ROC for acting in an unprofessional manner.

p. On or about 19 Oct 91, you reported for mobility without the proper and necessary equipment, for which you received an ROC, 19 Oct 91.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The Commander exercising SPCM jurisdiction (5 BW/CC) 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 [REDACTED] Area Defense Counsel, at his office, 300 Summit Drive, Room 306A, at 0800 hours, on 6 Jul 94. 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 1300 hours on 8 Jul 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 been scheduled for a medical examination. You must report to the Physical Exam Section, 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND at 0800, on 7 Jul 94, for the examination.

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.



Attachments:

1. Article 15, 5 Jul 94
 - a. UIF Summary, AF Form 1137, 20 Jun 94
 - b. AF Form 1058 w/atchs, 20 Jun 94
 - c. AAFES Overdue Notice Ltr, 14 May 94
 - d. AF Form 1058 w/atchs, 28 Apr 94
 - e. Notification of Indebtedness, 9 Feb 94
 - f. AF Form 1058 w/atchs, 7 Jan 94
 - g. Article 15, 24 Sep 93
 - h. AF Form 1058 w/atchs, 16 Sep 93
 - i. Letter from MAGTAF-CC w/atchs, 18 Aug 93
 - j. LOR, 2 Aug 93
 - k. ROC, 23 Jul 93
 - l. ROC, 16 Jul 93
 - m. ROC, 16 Apr 93
 - n. ROC, 26 Mar 93
 - o. ROC, 13 Oct 92
 - p. ROC, 17 Sep 92
 - q. Dishonored Check Notice w/atchs, 24 Dec 92
 - r. Denial of AFGCM, 16 Jun 92
 - s. AF Form 1058 w/atch, 5 Jun 92
 - t. Denial of AFGCM, 11 May 92
 - u. AF Form 1058 w/atch, 6 May 92
 - v. ROC, 30 Mar 92
 - w. No-Show Letter, 3 Dec 91
 - x. Armed Forces Traffic Ticket, 25 Oct 91
 - y. ROC, 19 Oct 91
2. Receipt of Letter of Notification