

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 150px; height: 15px; margin-top: 5px;"></div>		GRADE A1C	AFSN/SSAN <div style="background-color: black; width: 100px; height: 15px; margin-top: 5px;"></div>							
TYPE	X PERSONAL APPEARANCE	RECORD REVIEW								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">COUNSEL</td> <td rowspan="3" style="width: 50%;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td style="width: 10%;">YES</td> <td style="width: 10%;">NO</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>		COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	YES	NO		X	ADDRESS AND OR ORGANIZATION OF COUNSEL	
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION								
YES	NO									
	X									
MEMBERS SITTING		VOTE OF THE BOARD								
		HON	GEN	UOTHC	OTHER	DENY				
		X								
		X								
		X								
		X								
		X								
ISSUES A94.05	INDEX NUMBER A67.10	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								
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. Applicant's discharge is changed to Honorable, Reason is changed to Secretarial Authority. RE Code will not be changed. Advise applicant of the decision of the Board.										
SIGNATURE OF RECORDER				SIGNATURE OF BOARD PRESIDENT						
INDORSEMENT						DATE: 25 APR 03				
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 FD02-0402
<p>GENERAL: The applicant appeals for upgrade of discharge, change the reason and authority for the discharge, and to change the RE Code.</p> <p>The applicant appeared and testified before the Discharge Review Board (DRB), at Andrews Air Force Base, Maryland, on April 25, 2003.</p> <p>The following additional exhibits were submitted at the hearing: Exhibit 5: Applicant's issues; Exhibit 6: character letter; Exhibit 7: current pay statement; Exhibit 8: internet print out of other cases similar to applicants.</p> <p>The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: The discharge is changed to Honorable and the reason for discharge is changed to Secretarial Authority. However, the RE Code was not changed.</p> <p>ISSUE: The applicant received a General discharge for Misconduct – Minor Disciplinary Infractions. Applicant claims the discharge was too harsh and did not take into account the problems he was experiencing. After a thorough and complete consideration of the information submitted by the applicant, the applicants compelling testimony, and information contained in the record, the Board concluded there was sufficient mitigation and extenuation to substantiate a change in the Characterization and Reason for discharge, but did not change applicant's reenlistment code. The DRB opined that the applicant was not derelict in the performance of his duties when the Article 15 was issued and found it appalling that the First Sergeant did not move the applicant out of his room considering the problems he was having with his roommate. While the DRB did not condone the applicant's financial irresponsibility or the safety violations, they did feel it would have been more equitable to give him an Honorable discharge. The DRB also changed the applicant's Reason to Secretarial Authority. The DRB did not, however, change the RE Code based on the fact that the applicant was hospitalized at Malcolm Grow USAF Medical Center, Andrews AFB, MD, in the inpatient psychiatry unit from June 14 to July 7, 1992. Discharge diagnosis was personality disorder not otherwise specified.</p> <p>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; however, the applicant was not provided full administrative due process.</p> <p>In view of the foregoing findings, the board further concludes that the Characterization of the applicant's discharge should be changed to Honorable and the Reason for discharge is more accurately reflected as Secretarial Authority. SPD Code JFF, under the provisions of Title 10, USC 1553.</p> <p>Attachment: Examiner's Brief</p>	

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

MISSING DOCUMENTS

[REDACTED]
[REDACTED]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 8 Jul 92 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and Change to Reentry Code, Reason and Authority.

2. **BACKGROUND:**

a. DOB: 20 Sep 71. Enlmt Age: 18 10/12. Disch Age: 20 9/12. Educ: HS DIPL. AFQT: N/A. A-72, E-62, G-70, M-65. PAFSC: 45454 - Aircraft Pneudralic System Specialist. DAS: 8 Feb 91.

b. Prior Sv: (1) AFRes 9 Aug 90 - 13 Sep 90 (1 Month 5 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 14 Sep 90 for 4 yrs. Svd: 1 Yr 9 Mos 25 Das, all AMS.

b. Grade Status: A1C - 14 Apr 92
AMN - (EPR Indicates): 14 Sep 90 - 26 May 92

c. Time Lost: None.

d. Art 15's: (1) 15 Oct 91, Dover AFB, DE - Article 92. In that you, who knew of your duties at Dover Air Force Base, Delaware, on 4 Oct 91, were derelict in the performance of those duties in that you willfully failed to clean the area around engine number three of C5 aircraft 7000464 in the ISO Docks as it was your duty to do. Thirty days correctional custody. (Appeal withdrawn) (No mitigation)

e. Additional: LOR, 19 MAY 92 - Financial irresponsibility.
LOR, 06 MAR 92 - Failure to maintain dormitory room to inspection standards.
MFR, 19 DEC 91 - Financial irresponsibility.
ROC, 07 OCT 91 - Safety violation.
ROC, 27 SEP 91 - Safety violation.
MEMO, 9 AUG 91 - Overdue library books, uniform violation, and continual failure to meet dress and appearance standards.
LOR, 2 AUG 91 - Failure to complete training.

f. CM: None.

g. Record of SV: 14 Sep 90 - 26 May 92 Dover AFB 3 (Initial)

(Discharged from Dover AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yr (11) Mos (0) Das
TAMS: (1) Yr (9) Mos (25) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 15 Sep 02.

(Upgrade Discharge to Honorable, and Change to Reentry Code, Reason and Authority)

Issue 1: My first issue is upgrading my discharge to honorable.

Issue 2: I believe the issue would be did I do my job to the best of my ability or to the level of the US Air Force.

Issue 3: I believe I was mentally taken advantage of and discharged without reasonable explanation.

Issue 4: I do not want to blame any single person but I believe the system as a whole has a fault that allows people who are not mentally prepared to be taken advantage of by others. I was harassed time and again by women and men who felt that I was at a lower mental level than they were.

Issue 5: I believe I did my job to the best of my ability. I want to be made eligible for re-enlistment. I want to be apologized to! Thank you.

ATCH

1. Applicant's Additional Issues.

19 Dec 02/cr

Attached Issues:

1. Was threatened by a former ~~and~~ (2)
~~Room Mate~~ Room Mate who was always
 DRUNK.

2. Was Put into a Room with
 A Guy who had SEX with him
 self all the time. This was
 Reported but Nothing was done.

3. ~~Was~~ Was Put into CC
 For NO REASON AND HARASSED.

4. Harasled by A Former NEO
 in front of others but Nothing was
 Done.



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 436TH AIRLIFT WING (AMC)



FROM: JA

11 June 1992

SUBJ: Legal Review of AFR 39-10 Discharge, [REDACTED]
[REDACTED], 436 EMS

TO: CC

1. Summary: This discharge action was initiated against [REDACTED], on 29 May 1992 for a pattern of misconduct, specifically, minor disciplinary infractions, according to AFR 39-10, paragraph 5-46. Respondent's commander has recommended a general discharge without probation and rehabilitation. The case has been processed through notification procedures. For reasons set forth below, I recommend that you discharge respondent with a general discharge without probation and rehabilitation.

2. Background: Respondent enlisted in the Air Force on 9 August 1990 under the delayed enlistment program. He entered onto active duty 14 September 1990 for a period of four years, and has been on continuous active duty since that date. He has been assigned to the 436th Equipment Maintenance Squadron since 8 February 1991. Respondent has one EPR, with an overall rating of 3. He is entitled to wear the National Defense Service Medal and the Air Force Training Ribbon.

3. Evidence:

a. For the Government: On or about 31 July 1991, respondent failed to accomplish his training requirements, for which he received a letter of reprimand and an Unfavorable Information File (UIF) was established. On or about 27 September 1991, he violated safety standards, for which he was counseled. On or about 7 October 1991, he again violated safety standards, and was again counseled. On or about 4 October 1991, respondent was derelict in the performance of his duties, for which he was punished under Article 15 of the Uniform Code of Military Justice (UCMJ). On or about 6 March 1992, he failed to maintain his dormitory room within standards, for which he received a second letter of reprimand. Finally, on or about 29 April 1992, respondent failed to pay a just debt, for which he received a third letter of reprimand, which was entered into his UIF. Additionally, this discharge action was initiated.

b. For the Respondent: Respondent waived his right to submit statements in his own behalf.

4. Law and Discussion:

a. AFR 39-10, paragraph 5-46, provides that a pattern of misconduct consisting solely of minor disciplinary infractions (i.e., infractions which result in informal or formal counselings, letters of reprimand, or Article 15 nonjudicial punishment) in the current enlistment makes an airman subject to discharge. Over the last year, respondent has established such a pattern. He has been derelict in the performance of his duties, written a worthless check, and violated several general and base regulations. He has been verbally counselled, received three letters of reprimand, and been punished under Article 15, UCMJ. Therefore, there is a basis for discharge.

b. Under the provisions of AFR 39-10, you, as the special court-martial convening authority, can discontinue this discharge action if you find the commander's recommendation is not supported by the evidence. If you find that respondent should be discharged, AFR 39-10, paragraph 5-53, provides that respondent's service can be characterized as honorable, general, or under other than honorable conditions. You can order that respondent be discharged with a general discharge with or without probation and rehabilitation. If you find that an honorable discharge with or without probation and rehabilitation is appropriate, you can forward the case file and your recommendations to 21 AF/CC, who is the separation authority in discharge cases where the basis for discharge is misconduct and the recommended service characterization is honorable. If you find that an under other than honorable conditions discharge characterization is warranted, you can direct processing of this discharge under Chapter 6, AFR 39-10, as respondent would be entitled to a board hearing. Respondent's commander recommends he receive a general discharge, without probation and rehabilitation. I agree. AFR 39-10, paragraph 1-18, provides that a general discharge is appropriate if significant negative aspects of respondent's conduct and performance outweigh the positive aspects of his military record. That is the case here. Respondent's lengthy history of minor disciplinary infractions clearly outweigh any positive aspects of his record. Probation and rehabilitation are not appropriate in this case, given respondent's lack of positive response to prior rehabilitation efforts.

5. Conclusion: The file is substantially in compliance with the provisions of AFR 39-10 and is legally sufficient to discharge respondent prior to the expiration of his term of enlistment.

6. Recommendation: That you discharge respondent with a general discharge without probation and rehabilitation. If you agree, please sign the attached letter.

 USAF
Acting Staff Judge Advocate

2 Atch

1. Proposed Letter

2. Case File - 



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 436TH AIRLIFT WING (MAC)

DOVER AIR FORCE BASE, DELAWARE 19902

REPLY TO 436 EMS/CCQ
ATTN OF:

29 May 92

SUBJECT: Notification Letter

TO: [REDACTED]

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, minor disciplinary infractions. The authority for this action is 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 reason for this action is your record of misconduct, which is set forth below:

<u>Date</u>	<u>Incident</u>	<u>Action</u>	<u>Atch</u>
31 Jul 91	Failed to accomplish training	LOR/UIF	1
27 Sep 91	Safety violation	Record of counseling	2
7 Oct 91	Safety violation	Record of counseling	3
4 Oct 91	Dereliction of duty	Article 15	4
6 Mar 92	Failed dorm room inspection	LOR	5
29 Apr 92	Failure to pay just debt	LOR/UIF	6

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 the ADC at building 447, room 214, at 1100 hours on 3 June 1992. 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 3 June 1992 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. If you fail 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 Bldg 305 at 0730 on 2 June 1992 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 6. A copy of AFR 39-10 is available for your use in the EMS orderly room.
8. Execute the attached receipt of notification letter and return it to me immediately.


 USAF
 Squadron Section Commander, 436 EMS

10 Atchs

Supporting documents for the reason for discharge:

1. LOR, dated 2 Aug 91 w/atrch:
 - a. AF Form 1058
2. AF Form 174, dated 27 Sep 91
3. AF Form 174, dated 7 Oct 91
4. AF Form 3070, dated 15 Oct 91 w/atrch:
 - a. MFR, dated 23 Oct 91
 - b. Letter, dated 7 Oct 91
 - c. Letter, dated 7 Oct 91
 - d. Statement, dated 10 Oct 91
 - e. Airman's rebuttal
5. LOR, dated 6 Mar 92
6. LOR, dated 19 May 92 w/atrch:
 - a. AF Form 1058

Documents containing derogatory information which are not listed

7. MFR, dated 9 Aug 91
8. Letter, dated 16 Dec 91
9. Letter, dated 19 Dec 91
10. Airman's Receipt of Notification