

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AMN	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW								
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YES	NO									
	X									

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
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ISSUES A95.00	INDEX NUMBER A67.50	EXHIBITS SUBMITTED TO THE BOARD														
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HEARING DATE 26 FEB 03	CASE NUMBER FD2002-0422															

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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
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INDORSEMENT	DATE: 26 FEB 03
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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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD01-0422

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant had received an Article 15 for failure to report a motorcycle accident and a Vacation action of a suspended non-judicial punishment for dishonorably failing to pay just debts. In addition, he also received seven Letters of Reprimand, two Records of Individual Counseling, and a Memorandum for Record for reporting for duty in a wrinkled, dirty uniform, shoes unshined, operating a motorcycle without a drivers license, financial irresponsibility, failure to maintain the dormitory room in an orderly manner, being disrespectful to the First Sergeant, dereliction of duty, disorderly conduct and condoning a fight, failure to obey an order and for being disrespectful to an NCO. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of 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]
[REDACTED]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a [REDACTED] fr USAF 13 Nov 87 UP AFR 39-10, para 5-46 (Misconduct - Pattern of Minor Disciplinary Infractions). Appeals for [REDACTED]

2. **BACKGROUND:**

a. DOB: 21 Jun 67. Enlmt Age: 17 5/12. Disch Age: 20. Educ: HS DIPL. AFQT: N/A. A-37, E-71, G-39, M-73. PAFSC: 42335 - Apprentice Aerospace Ground Equipment Mechanic. DAS: 24 Mar 86.

b. Prior Sv: (1) AFRes 14 Dec 84 - 9 Jul 85 (6 Mos 26 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 10 Jul 85 for 4 yrs. Svd: 2 Yrs 4 Mos 4 Das, all AMS.

b. Grade Status: AMN - 3 Mar 87 (Vacation, Article 15, 27 Aug 87)
A1C - 10 Nov 87
AMN - 10 Jan 86

c. Time Lost: None.

d. Art 15's: (1) 27 Aug 87, Vacation, Aviano AB, Italy - Article 134. Preliminary investigation has disclosed that you, being indebted to the -----Deferred Payment Plan Program in the sum of \$140.00 for purchases, which amount became due and payable on 26 Jul 87, did, on or about 26 Jul 87, dishonorably fail to pay said debt. Reduction to the grade of AMN. (No appeal) (No mitigation)

(2) 3 Mar 87, Aviano AB, Italy - Article 92. Preliminary investigation has disclosed that you, having knowledge of a lawful order issued by Master Sergeant ----- to report to the Law Enforcement Desk to report a motorcycle accident, an order which it was your duty to obey, did, on or about 17 Feb 87, fail to obey the same by failing to comply with said order. Suspended reduction to the grade of AMN, forfeiture of \$100.00 pay per month for two months, and 60 days restriction. (No appeal) (No mitigation)

e. Additional: LOR, 23 SEP 87 - Failure to obey an order and disrespectful to an NCO.

LOR, 28 AUG 87 - Failure to meet room inspection standards.

LOR, 20 AUG 87 - Disorderly conduct and condoning a fight.
 RIC, 18 AUG 87 - Dereliction to duty.
 LOR, 31 JUL 87 - Financial irresponsibility.
 RIC, 30 JUL 87 - Disrespectful to unit First Sergeant.
 LOR, 03 MAR 87 - Failure to maintain dormitory room clean,
 neat and in an orderly manner.
 LOR, 02 MAR 87 - Financial irresponsibility.
 LOR, 02 MAR 87 - Operating a motorcycle without a drivers
 license, and failure to report an
 accident.
 MFR, 09 FEB 87 - Reported for duty in a wrinkled, dirty
 uniform, and with shoes unshined.

f. CM: None.

g. Record of SV: 10 Jul 85 - 21 Jul 86 Aviano AB 9 (Annual)
 22 Jul 86 - 21 Jul 87 Aviano AB 6 (Annual) (REF)

(Discharged from McGuire AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (11) Mos (1) Das
 TAMS: (2) Yrs (4) Mos (4) Das

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

NO ISSUES SUBMITTED

ATCH

None.

10Jan03/cr



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 40TH TACTICAL GROUP (USAF)
APO NEW YORK 09293-5000

FD2002-0422

REPLY TO
ATTN OF: JA

16 OCT 1987

SUBJECT: Legal Review - Air Force Regulation 39-10 Administrative Discharge
([REDACTED], [REDACTED], 40th Consolidated Aircraft
Maintenance Squadron)

TO:
CC

1. Legal Review: After a careful review of the above case, I find it to be legally sufficient to separate Airman [REDACTED] with a general discharge under Air Force Regulation 39-10, paragraph 5-46, for minor disciplinary infractions.

2. Facts: On 2 October 1987, the 40th Consolidated Aircraft Maintenance Squadron commander, [REDACTED], initiated action to discharge Airman [REDACTED] for misconduct, specifically, minor disciplinary infractions pursuant to Air Force Regulation 39-10, paragraph 5-46. [REDACTED] recommended that [REDACTED] be issued a general discharge without suspension for probation and rehabilitation.

3. Summary of Evidence for the Government:

a. The basis for the discharge action is the following:

(1) The respondent failed to obey an order given to him by [REDACTED] on 11 September 1987 for which he received a letter of reprimand to be placed in his Unfavorable Information File on 23 September 1987.

(2) On 26 August 1987, the respondent failed to properly clean his dormitory room for which he received a letter of reprimand on 28 August 1987.

(3) On 18 August 1987, the respondent failed to have his chemical warfare equipment readily available for which he received a record of counseling on that date.

(4) On 12 August 1987, the respondent was disorderly and condoned a fight for which he received a letter of reprimand to be placed in his Unfavorable Information File on 20 August 1987.

(5) On 30 July 1987, the respondent was disrespectful on the phone towards his first sergeant, Master Sergeant [REDACTED] for which he received a record of counseling on that date.

(6) On 26 July 1987, the respondent dishonorably failed to pay his debt totalling \$140 to AAFES for which his previously suspended Article 15

UNITED STATES AIR FORCE



SEPTEMBER 18, 1947

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punishment, dated 3 March 1987, was vacated on 27 August 1987, and he was reduced to the grade of airman (E-2) with an effective date of rank of 3 March 1987.

(7) On 23 July 1987, the respondent failed to pay his debt totalling \$60.25 to AAFES for which he received a letter of reprimand to be placed in his Unfavorable Information File on 31 July 1987.

(8) On 2 March 1987, the respondent failed to pay his debts totalling \$71.75 and 550,000 lire to the Base Exchange and his landlord respectively for which he received a letter of reprimand on that date.

(9) On 25 February 1987, the respondent failed to properly clean his dormitory room for which he received a letter of reprimand on 3 March 1987.

(10) The respondent failed to obey an order given to him by [REDACTED] on 17 February 1987 to report to the Law Enforcement Desk to report his motorcycle accident for which he received an Article 15 on 3 March 1987, and a commensurate suspended reduction to the grade of Airman (E-2).

(11) On 14 February 1987, the respondent wrongfully operated a motorcycle without a license and thereafter failed to report the accident for which he received a letter of reprimand to be placed in his Unfavorable Information File on 2 March 1987, and he was placed on the control roster.

(12) On 9 February 1987, the respondent reported for duty in a wrinkled and dirty uniform and unshined shoes for which he was counseled on 9 February 1987.

b. Additional Derogatory Data: None.

4. Summary of Evidence for the Respondent: In just over two years and three months of service, the respondent has received the Air Force Training Ribbon and overall ratings of "6" and "9" on his two Airman Performance Reports. In response to this discharge action, the respondent submitted a statement in which he takes full responsibility for his actions and requests that he be offered an opportunity to remain in the Air Force.

5. Errors and Irregularities:

a. Respondent was served a supplemental letter of notification on 16 October 1987, correcting the error in paragraph two of the original letter of notification, dated 2 October 1987. Since this irregularity was corrected, it did not affect the material rights of the respondent.

b. Paragraph eight was omitted from the original letter of notification. Paragraph eight should have stated, "Execute the attached acknowledgment and return it to me immediately." As respondent did receipt for the letter of notification on 2 October 1987, this omission did not affect his material rights.

6. Discussion: Based upon the respondent's twelve instances of various misconduct ranging from failure to obey orders, disorderly conduct, and disrespect to his first sergeant to failure to pay his debts, unlawful operation of a motorcycle and AFR 35-10 violations, discharge is appropriate under AFR 39-10, paragraph 5-46. [REDACTED] has repeatedly involved himself in some sort of trouble or another since February of this year. His service record warrants a general discharge. Further, numerous attempts to correct respondent's conduct and attitude have not been successful. His performance to date indicates a poor prognosis for a period of probation and rehabilitation, and, as such, I recommend you issue him a general discharge without suspension for probation and rehabilitation.

7. Commander's Options: As the special court-martial convening authority in this action, you have the following options:

- a. Retain the respondent in the United States Air Force;
- b. Discharge the respondent with a general discharge with or without suspension for probation and rehabilitation; or
- c. Forward this action to the general court-martial convening authority with the recommendation that the respondent be honorably discharged with or without suspension for probation and rehabilitation. The letter to 16AF/CC must state how the respondent's military record warrants the issuance of an honorable discharge.

8. Recommendation: I recommend that [REDACTED] be issued a general discharge without suspension for probation and rehabilitation.

[REDACTED]

I concur.

[REDACTED]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 40TH TACTICAL GROUP (USAFE)
APO NEW YORK 09293-5000

FD 2002-0422

REPLY TO
ATTN OF: 40 CAMS/CC

02 OCT 1987

SUBJECT: Letter of Notification

TO: [REDACTED] 40 CAMS

1. I am recommending your discharge from the United States Air Force for 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 reasons for this action are:

a. You failed to obey an order given to you by [REDACTED] on 11 Sep 87, for which you received a letter of reprimand on 23 Sep 87.

b. You failed to properly clean your dormitory room on 26 Aug 87, for which you received a letter of reprimand on 28 Aug 87.

c. You failed to have your chemical warfare equipment readily available on 18 Aug 87, for which you received a record of counseling on that date.

d. You were disorderly and condoned a fight on 12 Aug 87, for which you received a letter of reprimand to be placed on your UIF in 20 Aug 87.

e. On 30 Jul 87, you were disrespectful on the phone towards your first sergeant, [REDACTED], for which you received a record of counseling on that date.

f. You dishonorably failed to pay your debt of \$140.00 to AAFES by 26 Jul 87, for which your previously suspended Article 15 punishment, dated 3 Mar 87, was vacated on 27 Aug 87, and you were reduced to the grade of Airman (E-2) with an effective date of rank of 3 Mar 87.

g. You failed to pay your debt of \$60.25 to AAFES by 23 Jul 87 for which you received a letter of reprimand to be placed in your UIF on 31 Jul 87.

h. You failed to pay your \$71.75 DPP debt to the Base Exchange and your 550,000 lire debt to your landlord by 2 Mar 87 for which you received a letter of reprimand on that date.

i. You failed to properly clean you dormitory room on 25 Feb 87, for which you received a letter of reprimand on 3 Mar 87.

UNITED STATES AIR FORCE



SEPTEMBER 18, 1947

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j. You failed to obey an order given to you by [REDACTED] on 17 Feb 87 to report to the Law Enforcement desk to report a motorcycle accident for which you received an Article 15 on 3 Mar 87, and a commensurate suspended reduction to the grade of Airman (E-2).

k. You wrongfully operated a motorcycle without a license and you failed to report your accident on 14 Feb 87 for which you received a letter of reprimand to be placed in your UIF on 2 Mar 87 and you were placed on the control roster.

l. You reported for duty on 9 Feb 87 with a wrinkled and dirty uniform, and your shoes not shined for which you were counseled on 9 Feb 87.

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. 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] at the Area Defense Counsel's office, bldg 130, at 1030 hrs, on 2 Oct 87. 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 7 Oct 87, 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 USAF Clinic, Aviano at 0730 hrs, on 9 Oct 87 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 Unit Orderly room of your squadron.

[REDACTED]

1 Atch

1. Supporting Documents for the Reasons for Discharge.

a. Letter of Reprimand, w/atc, 13 Sep 87.

b. Letter of Reprimand, dated 28 Aug 87.

- c. Record of Counseling,
18 Aug 87.
- d. Letter of Reprimand,
dated 20 Aug 87
- e. Record of Counseling, dated
30 Jul 87.
- f. Article 15 w/atch, 3 Mar 87
- g. Letter of Reprimand, w/atch,
dated 31 Jul 87.
- h. Letter of Reprimand, w/atch,
dated 2 Mar 87.
- i. Letter of Reprimand,
3 Mar 87.
- j. Article 15, w/atch,
3 Mar 87.
- k. Letter of Reprimand, w/atch,
dated 2 Mar 87.
- l. Letter of Counseling,
9 Feb 87.