

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL.) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE AMN	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>	YES	No		X		
YES	No					
	X					

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UO/HC	OTHER	DENY
					X*+
					X*+
					X*+
					X*+
					X*+

ISSUES A92.21 A93.11 A93.01	INDEX NUMBER A67.90	EXHIBITS SUBMITTED TO THE BOARD														
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>	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
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HEARING DATE 28 Jul 2006	CASE NUMBER FD-2005-00422	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard in 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

Names and votes will be made available to the applicant at the applicant's request.

*Reason and Authority
+Reenlistment Code

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT	DATE: 7/31/2006
TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00422

GENERAL: The applicant appeals for upgrade of discharge to honorable, change the reason and authority for the discharge, and to change the reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) 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, change of reason and authority for discharge, and change of reenlistment code are denied. The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE:

Issue 1. The applicant admitted that he was young and lacked personal financial experience and made poor personal decisions. He has requested relief so that he could once again serve in the armed forces. The records indicated the applicant received one Article 15, a Vacation and five Letters of Reprimand for misconduct. The applicant received the Article 15 for wrongfully appropriating \$155.00 from another airman and a Vacation action on his reduction to airman. He also received five Letters of Reprimand for failure to go, dereliction of duty, failure to obey an order and financial irresponsibility. 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.

Issue 2. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 3. Applicant contends that he should not be penalized indefinitely for mistakes he made when he was young. The DRB recognized the applicant was 21 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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**

(Former AMN) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF Minot AFB, ND on 25 Mar 93 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. BACKGROUND:

a. DOB: 4 Sep 71. Enlmt Age: 18 7/12. Disch Age: 21 6/12. Educ: HS DIPL. AFQT: N/A. A-35, E-62, G-74, M-74. PAFSC: 81130 - Security Specialist. DAS: 15 Mar 91.

b. Prior Sv: (1) AFRes 25 Apr 90 - 14 Oct 90 (5 months 20 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 15 Oct 90 for 4 yrs. Svd: 02 Yrs 05 Mo 11 Das, all AMS.

b. Grade Status: Amn - 28 Sep 92 (Article 15, 18 Mar 93)
A1C - 15 Feb 92
Amn - 15 Apr 91

c. Time Lost: None.

d. Art 15's: (1) 18 Mar 93, Vacation, Minot AFB, ND - Article 123a. Preliminary investigation has disclosed that you did, between on or about 1 Oct 92 and on or about 15 Oct 92, with intent to defraud and for the procurement of lawful currency, wrongfully and unlawfully utter to Amn [redacted], a certain check for the payment of money in the amount of \$110.00, made payable to the order of [redacted], and signed [redacted], then knowing that you the maker thereof, did not or would not have sufficient funds or credit for the payment of said check in full upon its presentment. Reduction to Airman. (No appeal) (No mitigation)

(2) 28 Sep 92, Minot AFB, ND - Article 121. Preliminary investigation has disclosed that you did, on or about 15 Jun 92, wrongfully appropriate, \$155.00, the property of A1C [redacted]. Suspended reduction to Airman. Forfeiture of \$200.00 pay per month for one month, and restriction to the limits of Minot AFB, ND for 14 days. (No appeal) (No mitigation)

e. Additional: LOR, 04 MAR 93 - Financial irresponsibility.

LOR, 01 MAR 93 - Failure to obey a lawful order.
LOR, 09 FEB 93 - Financial irresponsibility.
LOR, 11 DEC 92 - Failure to obey an order or regulation.
LOR, 27 NOV 92 - Dereliction of duty and failure to go.

f. CM: None.

g. Record of SV: 15 Oct 90 - 14 Jun 92 Minot AFB 4 (Initial)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (01) Das
TAMS: (02) Yrs (05) Mos (11) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01 Nov 05.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Three Training Certificates.
4. Certificate of Recognition.
5. Three Letters of Appreciation.
6. Two Training Certificates.
7. Marriage License.
8. Birth Certificate.
9. Driver's License.
10. High School Diploma.
11. Criminal Check.
12. Police Recruit Scoring Information.
13. Associate of Applied Science Degree.
14. College Transcript.
15. Eight Letters of Support.
16. Credit Report.

15DEC05/ia

To whom it may concern,

I am writing this statement in regards for a discharge upgrade from General (Under honorable conditions) to an Honorable discharge.

My reason for this request stem from my desire to enlist in the United States Army. The current status of my discharge prevents reenlistment due to the RE Code being classified as a (2B) and separation code of (JKM). I realize that at the time of my release from the Unites States Air Force my actions were not something that I am proud of. I have always and to this day take full responsibility fort hose actions.

Please understand that at the time of my release I was a young man who before my enlistment had never been on my own, never felt the burden of financial responsibility or truly understood the consequences of my actions. Although these actions were both embarrassing and unacceptable, I feel the separation code stated was inadequate due to the fact that my problems stem from a lack of personal financial experience and poor personal decisions. Some of which were based on the fear and ignorance of youth.

I do not dispute that I made some poor personal and financial decisions but I do feel that my service in uniform was honorable and I am proud of my on the job record. I also feel that my Re Code as a 2B is making a presumption that because my actions made in a relatively short period of time at such a young age, that I am unable to or unworthy of the Honor of Serving My Country again.

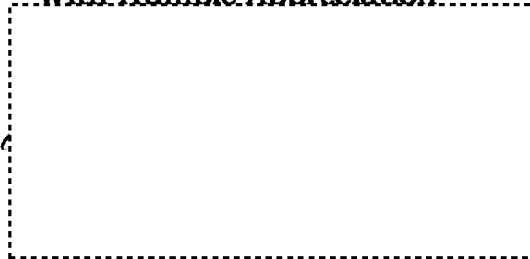
I implore you to let my post service record show you that I am not the same person I was 12 years ago. Since my release in 1993 I have truly matured and learned from my past mistakes. I February 1994 I met my now wife: _____ whom I married in April 1995, also in that time I have reestablished my credit, purchased a home in which I have lived in for the past 7 years, received my commercial class B drivers license, attended and graduated from Mott Community College with an Associates in Applied Science Degree in Criminal Justice with honors for a 3.05 GPA. My wife and I also went through a 7 year period of times trying to have a baby unsuccessfully in which out of pocket expenses for infertility exceeded \$15,000 dollars. In May 2002 we were blessed with our first child whom we named: _____ I am currently in the hiring process for the Louisville Kentucky metro Police Department.

Please understand that my desire to enlist in the Army is a decision that I have put a lot of thought into and have fully discussed with my family. My reasons are not based on a lack of employment opportunities because I currently have a job with _____ which pays well and has good benefits. I believe the Army is an opportunity for me to give back to a country that has given so much to me. A career in the Army is one that would be challenging, rewarding, and an honor for both my family I. Due to the foolish mistakes of my past, I have learned valuable lessons that I take seriously and strive to never make again.

Again I sincerely ask for your forgiveness of my past short comings and mistakes and allow me the opportunity to serve my country again. I believe I would make an excellent soldier and be a credit to this country and the US Army.

Your approval to upgrade my discharge from a General (Under Honorable Conditions) to an Honorable with an RE Code that would allow for enlistment would be greatly appreciated.

With Humble Appreciation





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

FROM: JA

23 March 1993

SUBJ: Legal Review - AFR 39-10, Paragraph 5-47b Discharge, Amn [redacted]
[redacted], 92d Missile Security Squadron, Minot AFB, ND

TO: ccb

1. I have reviewed the administrative discharge action against Amn [redacted] and find it legally sufficient to support his discharge from the Air Force.

2. BASIS FOR THE ACTION: Administrative action against Amn [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 15 Jun 92, Amn [redacted] wrongfully appropriated \$155.00 from another Air Force member by cashing a check that was suppose to go towards the airman's payment of a debt. For this offense, he received nonjudicial punishment on 28 Sep 92, including a suspended reduction to Airman, forfeiture of \$200 pay per month for one month, and restriction to the base for 14 days.

b. On or about 24 Nov 92, Amn [redacted] failed to report for duty. On or about 28 Nov 92, Amn [redacted] was not available for duty while he was on stand-by. For these offenses, he received Letters of Reprimand (LOR) on 27 Nov 92 and 11 Dec 92.

c. On or about 18 Nov 92, Amn [redacted] wrote a check for \$10.00 on a closed account. For this offense, he was counseled on 18 Dec 92.

d. On or about 29 Oct 92, 30 Oct 92, and 5 Nov 92, Amn [redacted] uttered three nonsufficient funds checks. For these offenses, he was convicted in the Ward County Court. He was ordered to pay restitution in the amount of \$47.34, and he received a 10 day jail sentence which was suspended for one year. He also received a LOR on 4 Mar 93.

e. On or about 15 Oct 92, Amn [redacted] wrote a check for \$110 to another military member knowing that he had insufficient funds in his account to cover the amount of that check. On 9 Feb 93, he was given an LOR and advised to clear his debts. As of one 1 Mar 93, Amn Gardner still had not redeemed his NSF check. For this offense, his suspended reduction to airman was vacated on 18 Mar 93.

3. MATTERS SUBMITTED BY THE RESPONDENT: On 22 Mar 93, after consultation with the Area Defense Counsel, Amn Gardner chose not to submit statements in his own behalf.

Global Power for America

4. DISCUSSION.

a. In deciding whether Amn [] 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 above. I believe the facts documented in this paragraph show that Amn Gardner 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 Amn [] should be discharged. You may consider Amn [] entire military record when making this determination. In my opinion, Amn [] repeated misconduct since June, 1992, warrants discharge. In less than nine months, Amn [] has received one Article 15 (for wrongfully appropriating \$155.00 from another airman), been convicted by the Ward County Court for writing NSF checks and has received four LORs (for not reporting for duty, for not being on stand-by, for a civil court conviction and for writing NSF checks). In addition, on 18 Mar 93, Amn [] suspended reduction to airman was vacated for failing to redeem an NSF check that was written in Oct 92. Amn [] repeated misconduct demonstrates that he should be discharged.

c. On 23 Mar 93, the squadron commander recommended that Amn [] be discharged with a general discharge. After reviewing the case file, I concur with that recommendation.

d. Amn [] has two years and five months active duty service. His current enlistment began on 15 Oct 90. Amn [] received one EPR evaluation in this enlistment. The overall rating was 4 (14 Jun 92)

5. ERRORS AND IRREGULARITIES: None.

6. CHARACTERIZATION OF SERVICE: If you determine that Amn [] 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 only appropriate if the member's service record has been so meritorious that any other characterization would be clearly inappropriate. In this case, Amn [] misconduct has not been so deleterious as to warrant an under other than honorable conditions discharge. However, Amn [] 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. Amn [] commander does not recommend P&R. Amn [] has failed to respond to repeated rehabilitative measures. He has little concern for military standards and seems unwilling to change his behavior. Accordingly, I do not recommend that P&R be offered in this case.

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

- a. Retain Amn [] if the evidence does not support discharge;
- b. Return the case to the squadron for processing under a more appropriate provision;
- c. Return the case to the squadron to reinstate 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;
- d. Discharge Amn [] 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 Amn [] 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, Amn Gardner be barred from entering the base. If you agree, please sign the debarment letter at attachment 3.

[]
Staff Judge Advocate

3 Atch

1. Letter
2. Case File
3. Debarment Letter



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS 91ST SECURITY POLICE GROUP (ACG)
 MINOT AIR FORCE BASE, NORTH DAKOTA

FROM: 92 MLSS/CC

19 Mar 93

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

TO: Amn [REDACTED]
 92d Missile Security Squadron

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 15 Jun 92, you wrongfully appropriated \$155.00 from another Air Force member by cashing a check that was suppose to go towards the airmen's payment of a debt. For this offense, you received nonjudicial punishment on 28 Sep 92, including a suspended reduction to Airman, forfeiture of \$200 pay per month for one month, and restriction to the base for 14 days.

b. On or about 24 Nov 92, you failed to report for duty. On or about 26 Nov 92, you were not available for duty while you were on stand-by. For these offenses, you received Letters of Reprimand (LOR) on 27 Nov 92 and 11 Dec 92.

c. On or about 18 Nov 92, you wrote a check for \$10 on a closed account. For this offense, you were counseled on 18 Dec 92.

d. On or about 29 Oct 92, 30 Oct 92, and 5 Nov 92, you uttered three nonsufficient funds checks. For these offenses, you were convicted in the Ward County Court. You were ordered to pay restitution in the amount of \$47.34, and you received a 10 day jail sentence which was suspended for one year. You also received a LOR on 4 Mar 93.

e. On or about 15 Oct 92, you wrote a check for \$110 to another military member knowing that you had insufficient funds in your account to cover the amount of that check. On 9 Feb 93, you were given an LOR and advised to clear your debts. As of one 1 Mar 93, you still had not redeemed your NSF check. For this offense, your suspended reduction to airman was vacated on 18 Mar 93.

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 Captain [redacted], Area Defense Counsel, at his office, Bldg 475, Room 306A, at 0900 hours on 22 Mar 1993. 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 1500 hours on 24 Mar 1993, 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, Minot AFB, ND at 0800 on 23 Mar 93 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.

[redacted]
 Commander, 92 MLSS *J*

12 Atch

1. AF Fm 366, w/atchs
2. LOR, 4 Mar 93, w/atchs
3. LOR, 9 Feb 93
4. MFR, 18 Dec 92
5. LOR, 11 Dec 92
6. LOR, 27 Nov 92
7. AF Fm 3070, 28 Sep 92, w/atc
9. MFR, 24 Apr 92
10. MFR, 17 Dec
11. LOR, 1 Mar 93
12. Receipt of Letter of Notification