

<input checked="" type="checkbox"/>		<b>MEMBERS SITTING</b>			<b>VOICE OF THE BOARD</b>				
					<input type="checkbox"/> HON	<input type="checkbox"/> BEN	<input type="checkbox"/> VOTHG	<input type="checkbox"/> OTHER	<input type="checkbox"/> DENY
COL LLOYD F. LeROY									<input checked="" type="checkbox"/>
LT COL RICHARD M. STEDDING, JR.									<input checked="" type="checkbox"/>
LT COL STEVEN A. SIMON									<input checked="" type="checkbox"/>
LT COL NORMAN L. BURSON									<input checked="" type="checkbox"/>
LT COL DAVID A. CHRISTIANSON									<input checked="" type="checkbox"/>
ISSUES A94.53		INDEX NUMBER A67.90			<b>EXHIBITS SUBMITTED TO THE BOARD</b>				
					1	ORDER APPOINTING THE BOARD			
					2	APPLICATION FOR REVIEW OF DISCHARGE			
					3	LETTER OF NOTIFICATION			
					4	BRIEF OF PERSONNEL FILE			
HEARING DATE 980831		CASE NUMBER FD98-0188				COUNSEL'S RELEASE TO THE BOARD			
						ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
					<input checked="" type="checkbox"/>	TAPE RECORDING OF PERSONAL APPEARANCE HEARING			
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AFHQ FORM 0-464									
REMARKS									
Case heard at Dobbins, ARB GA.									
The applicant was scheduled for a personal appearance before the Discharge Review Board without counsel at Dobbins ARB, GA, on August 31, 1998 but did not respond to formal notification of the hearing date and failed to appear without requesting a postponement.									
Advise applicant of the decision of the Board.									
SIGNATURE OF RECORDER					SIGNATURE OF BOARD PRESIDENT				
<i>Steven A. Simon</i>					<i>Lloyd F. LeRoy</i>				
STEVEN A. SIMON, COLONEL, USAF					LLOYD F. LeROY, COLONEL, USAF				
<b>INDORSEMENT</b>								DATE 98/09/22	
TO: SAF/MIBR 650 C Street West, Suite 40 RANDOLPH AFB, TX 78150-4742					FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1536 COMMAND DR, EE WING 3rd Floor ANDREWS AFB MD 20331-7002				
ADVISE THE APPLICANT, NEXT OF KIN, LEGAL GUARDIAN OR OTHER OF THE BOARD'S DECISION. SEE REMARKS SECTION FOR ADDITIONAL INSTRUCTIONS.									

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable.

The applicant was scheduled for a personal appearance before the Discharge Review Board without counsel at Dobbins ARB, Georgia, on August 31, 1998 but did not respond to formal notification of the hearing date and failed to appear without requesting a postponement.

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.

The applicant's issue is listed in the attached brief.

Issue 1: The applicant contended that, since "I was allowed to return to active duty to complete my full term," his discharge should be upgraded to Honorable. The Board was unable to determine exactly what the applicant meant, but assumed the issue to be that, since the court-martial did not discharge him and he served his sentence, he should be awarded the upgrade. The Board reaffirmed that, if a court-martial does not punitively discharge a member, the unit can initiate administrative discharge action, as was done in this case. The Board concluded the negative aspects of the applicant's service outweighed the positive, rendering the General discharge appropriate. There being no matters of equity or propriety, the Board found the issue to be without merit.

**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:

1. Examiner's Brief

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

(Former AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/08/13 UP AFR 39-10, para 5-49 (Misconduct - Pattern of Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.
2. **BACKGROUND:**
- a. DOB: 65/02/01. Enlmt Age: 20 7/12. Disch Age: 27 6/12. Educ: HS DIPL. AFQT: N/A M-44, A-80, G-82, E-62. PAFSC: 49151 - Communications Computer Systems Operator. DAS: 88/07/05.
- b. Prior Sv: AFRes 85/09/19 - 86/01/24 (4 months 5 days) (Inactive).
3. **SERVICE UNDER REVIEW:**
- a. Enld as: AMN 86/01/24 for (6) Yrs. Svd: 6 Yrs 6 Mo 15 Das, all AMS.
- b. Grade Status: AMN - 92/04/13 (GCM # 26, 92/04/13)  
SRA - 90/11/30 (NCO Status Vacated)  
SGT - (APR Indicates): 88/06/02-89/06/01  
SRA - 88/01/18  
A1C - 86/03/18
- c. Time Lost: 92/08/08-92/08/13.
- d. Art 15's: none.
- e. CM: (1) General Courts Marital Order No.26 - 92 Apr 13  
Charge I: Article 109. Plea: Not Guilty. Finding: Not Guilty.  
Specification: At Boblingen, DM, on or about 31 Aug 91, recklessly waste by striking with an automobile, property of -----, and the property of the City of Boblingen, DM, of a value of more than \$100.00.  
Charge II: Article 119. Plea: Not Guilty. Finding: Not Guilty, but Guilty of a violation of Article 134.  
Specification: At Boblingen, GM, on or about 31 Aug 91, by culpable negligence unlawfully kill ----- by striking him with an automobile. Plea: NG. Finding: Guilty, except the words "by culpable negligence" and adding before the "striking" the word "negligently." Of the excepted words, Not Guilty: of the added word, Guilty. Sentence: adjudged on 17 Jan 92: Confinement for eight months and reduction to Amn.
- f. Record of SV: 86/01/24 87/01/23 Hanscom AFB 9 (Annual)  
87/01/24 88/01/23 Hanscom AFB 9 (Annual)  
88/01/24 88/06/01 Hanscom AFB 9 (Annual)

88/06/02 89/06/01 Stuttgart, Ger 9 (Annual)  
89/06/02 90/03/31 Stuttgart, Ger 4 (HAF Dir)  
90/04/01 91/01/25 Stuttgart, Ger 4 (CRO)  
91/01/26 92/01/16 Stuttgart, Ger 2 (CRO) (Ref)  
(Discharged from Charleston AFB)

g. Awards & Decs: AFAM, AFGCM W/1 DEV, NDSM, AFLSAR, NCOPMER, AFTR.

h. Stmt of Sv: TMS: (6) Yrs (10) Mos (19) Das  
TAMS: (6) Yrs (6) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 98/03/31.  
(Change Discharge to Honorable)

Issue 1: I request that my discg be upgraded to Honorable. Even though I received a UHC Discg I was allowed to return to active duty to complete my full term.

ATCHS

none.

98/05/28/ia



DEPARTMENT OF THE AIR FORCE  
41ST USAF SPECIAL ACTIVITIES SQUADRON (USAFS)  
APO NEW YORK 09131-5000



REF ID: CC  
SUBJECT:

22 JUL 1992

Notification Letter - Board Hearing

[REDACTED]

1. I am recommending your discharge from the United States Air Force for misconduct, conduct prejudicial to good order and discipline, and commission of a serious offense, according to AFR 39-10, under the provisions of paragraphs 5-47b and 5-49c. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On 31 Aug 91, you killed a German citizen by your culpable negligence, in violation of Article 134, UCMJ. For this, you were convicted at general court-martial and sentenced to serve eight months in confinement and to be reduced to E-2 (Atch 1a).

b. Between 16 Dec 91 and the present, you failed to make payments on your EUCOM Audio Photo Club account (Atch 1b).

c. Due to your continued financial irresponsibility, you were reprimanded on 7 Sep 90 (Atch 1c).

d. On or about 22 Mar 90, you were notified that indebtedness owed by you to the Army and Air Force Exchange Service in the amount of \$248 had not been paid in two weeks (Atch 1d).

e. On or about 18 Mar 90, you failed to make timely payment on your home layaway account (Atch 1e).

f. On or about 6 Mar 90, you issued a worthless check in the amount of \$58.76 to the US Army Commissary (Atch 1f).

g. On or about 30 Jan 90, you issued a worthless check in the amount of \$90.00 to the EUCOM Club System (Atch 1g).

h. On or about 9 Mar 90, you were notified by [REDACTED] that you had issued a worthless check in the amount of \$75.00 on 24 Jan 90 (Atch 1h).

i. On or about 7 Feb 89, you failed to make a timely payment on your DPP account (Atch 1i).

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions 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 have been scheduled for a medical examination. You must report to the Ramstein Medical Clinic, 23 Jul 92, at 0700.

6. Military legal counsel, [redacted] Bldg 2013, DSN [redacted] has been obtained to assist you. An appointment has been scheduled for you to consult him on 23 Jul 92, at 1400. 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 statements 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 2. A copy of AFR 39-10 is available for your use at your unit orderly room.

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



USAF

Commander

2 Atch

1. Supporting Documents for the Reason for Discharge

- a. GCMO No. 26, 13 Apr 92
- b. TPP Account Record
- c. Ltr of Reprimand, 7 Sep 90
- d. AAFES Ltr, 22 Mar 90
- e. AAFES Ltr, 7 Apr 90
- f. Dept of Army Ltr, 10 Apr 90 w/Atch Ltr, 12 Apr 90
- g. HQ EUCOM Ltr, 21 Mar 90
- h. [Redacted] Bank Ltr, 9 Mar 90
- i. AAFES Ltr, 7 Feb 89

2. Other Derogatory Data

- a. Notice of Dishonored Check, 11 Apr 89 w/Receipt
- b. Dishonored Check Notice Ltr, 1 Aug 90
- c. Non-Recommendation for Reenlistment, 28 Nov 90