

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AIC	AFSN/SSAN [REDACTED]						
TYPE	<input checked="" type="checkbox"/> PERSONAL APPEARANCE		RECORD REVIEW						
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL							
NAME OF COUNSEL AND OR ORGANIZATION [REDACTED]		DAV							
<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 style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		YES	NO	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
YES	NO								
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MEMBERS SITTING		VOICE OF THE BOARD							
		HON	GEN	UOHC	OTHER	DENY			
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ISSUES A94.06		INDEX NUMBER A70.00		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				
HEARING DATE 26 SEP 02		CASE NUMBER FD2001-0553		APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE					
REMARKS									
<p>Case heard at Washington, D.C.</p> <p>Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.</p>									
SIGNATURE OF RECORDER		SIGNATURE OF BOARD PRESIDENT							

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD01-0553

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, MD on September 26, 2002.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions.

Exhibit 6 through 26: Character Letters, Achievement awards and Certificates.

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge to Honorable is denied. However, the Board grants an upgrade of discharge to General. Change of Reason and Re Code is denied.

The applicant's issues are listed in the attached brief.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant was discharged with an Under Other Than Honorable Discharge in Lieu of a Court Martial for wrongfully and fraudulently obtaining telephone services on a government telephone line. The Board concluded the misconduct was a significant departure from conduct expected of all military members. While the DRB did not condone the applicant's misconduct, they did feel it would have been more equitable to give him a General 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.

However, in view of the foregoing findings the Board also concludes that the overall quality of the applicant's service is more accurately reflected by a General discharge. Therefore, the applicant's characterization for discharge should be changed to General.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch.fr USAF 89/12/14 UP AFR 39-10, para 4-12a (Discharge in Lieu of Court Martial). Appeals for Honorable Discharge, to Change RE Code, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 69/05/14. Enlmt Age: 17 9/12. Disch Age: 20 7/12. Educ:HS DIPL. AFQT: N/A. A-Unknown, E-Unknown, G-Unknown, M-Unknown. PAFSC: 27650 - Aerospace Control & Warning Systems Operator. DAS: (APR Indicates): 87/08/04-88/08/03.

b. Prior Sv: (1) AFRes 87/02/20 - 87/08/03 (5 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 87/08/04 for 4 yrs. Svd: 02 Yrs 04 Mo 11 Das, all AMS.

b. Grade Status: A1C - 88/12/04
AMN-(APR Indicates): 87/08/04-88/08/03

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: none.

g. Record of SV: 87/08/04 - 88/05/03 Tyndall AFB 9 (Annual)
88/08/04 - 89/08/03 Tyndall AFB 4 (Annual)

(Discharged from Tyndall AFB)

h. Awards & Decs: AFTR.

trouble over large phone bills (of which all have been paid). I was told by some communications guys that if I used the dorm phone for long distance it was equal to the watts lines that the military used all the time to make free or low charge phone calls. I didn't know any different being young and dumb (or naive) at the time. I began using the phone for calling my girlfriend (who is now my wife) and we would talk for long periods of time.

As you can guess, we ran up large bills on the military dorm phone, I was in a lot of trouble, and very scared. I had gotten the word from another communications guy (who was more honest than the others) who told me they were looking for the people who ran up the phone bill for that dorm. Well, at that point I turned myself in not really understanding what I had done, since I thought that it was supposed to be free (if I had known the truth, or been less naive I would not have done such a thing). I am not a criminal, I have never been arrested, never been in any trouble & I don't drink or smoke or drugs of any kind.

I am self employed and have been since 1995, I have built two internet companies and we are a full communications company, we provide wireless phones as an ---- agent, we provide a wide range of computer services such as dialup internet access and wireless broadband, I am a certified computer repair technician (among other things). I also have a wonderful little boy named Johnathan who is 6 years old, who has given me new hope in life and made me a better person than I ever thought I could be.

What I am asking for, is for someone to please consider helping me get my discharge upgraded to general or honorable so I can have more opportunities and possibly serve my country again in some way and hopefully make up for any wrong doing I may have inadvertently done.

ATCH

1. Applicant's Issues.

02/03/28/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS FIRST AIR FORCE (TAC)

LANGLEY AIR FORCE BASE VA 23665-5009

FD 2001-0553

REPLY TO
ATTN OF: JA

5 December 1989

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial - [REDACTED]

TO: CC

1. I have reviewed the attached case file concerning a request for discharge in lieu of court-martial submitted by [REDACTED] Tyndall AFB, FL. The case file is legally sufficient and complies with the requirements of AFR 39-10, Chapter 4.

2. On 20 November 1989, the commander of the 325th Technical Training Squadron, [REDACTED] preferred a charge under the Uniform Code of Military Justice (UCMJ) against [REDACTED]. The charge alleges a violation of Article 134, UCMJ, in that [REDACTED] wrongfully and fraudulently obtained telephone services on a government telephone line of a value of more than \$100 during the period from 1 September through 1 November 1989.


3. On 25 October 1989, [REDACTED] provided a statement to the Office of Special Investigations (OSI) after proper advisement of his rights under Article 31 of the Uniform Code of Military Justice. [REDACTED] confessed to receiving collect calls from his girl friend on the government phone located in his dormitory. These calls occurred from September through November 1989 and amounted to more than 65 calls costing in excess of seven hundred dollars. Records from the local telephone company confirm the calls.

4. Both the accused's commander and the commander, USAF ADWC, have recommended approval of the request for discharge. They both recommend the issuance of an under other than honorable conditions discharge. They base these recommendations upon the fact that [REDACTED] has no history of prior misconduct and that he has made full restitution to the telephone company.

5. In accordance with AFR 39-10, Chapter 4, paragraph 4-11, you must personally take action on the request for discharge in lieu of court-martial. If you approve the request, you must also determine the type of discharge to be issued. If you disapprove the request, you may take action to refer the case to trial by court-martial.

PD 2001-0553

court-martial. I recommend you take action to approve the request for discharge. I further recommend the issuance of an under other than honorable conditions discharge.


Colonel, USAF
Staff Judge Advocate

1 Atch
Case file - 

PD 2001-0523

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) [REDACTED]			2. SSN [REDACTED]	3. GRADE OR RANK A1C	4. PAY GRADE E-3
5. UNIT OR ORGANIZATION 3625th Technical Training Squadron Tyndall Air Force Base, Florida 32403-5815				6. CURRENT SERVICE	
				a. INITIAL DATE 4 Aug 87	b. TERM 4
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED	9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL			
\$858.90	None	\$858.90	None	N/A	

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that AIRMAN FIRST CLASS [REDACTED], United States Air Force, 3625th Technical Training Squadron, Tyndall Air Force Base, Florida, did at Tyndall Air Force Base, Florida, on one or more occasions from on or about 1 September 1987 to on or about 1 November 1989, with intent to defraud, falsely pretend to telephone operators that he was entitled to accept collect telephone calls on a government telephone line, then knowing that the pretenses were false, and by means thereof did wrongfully obtain from St Joseph Telephone Company services, of a value of more than \$100.00, to wit: personal long-distance telephone calls at telephone number [REDACTED] located in the dayroom of Building #1152.

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE [REDACTED]	c. ORGANIZATION OF ACCUSER 3625th Technical Training Squadron
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 30 Nov 89

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 20th day of November, 19 89, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.