

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A94.05	INDEX NUMBER A68.00	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; padding: 5px; text-align: center;">1</td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 5px; text-align: center;">2</td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 5px; text-align: center;">3</td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 5px; text-align: center;">4</td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </tbody> </table>	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
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HEARING DATE 20 DEC 02	CASE NUMBER FD2002-0107																	

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.

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 [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 20 DEC02
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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

FD02-0107

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 neither evidence of record nor that provided by the applicant provides a sufficient basis in clemency for a change of discharge.

The applicant did not receive an administrative discharge, thus his contention of inequity is not applicable. The applicant received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court-Martial conviction. Under the provisions of Section 1553, 10 USC, the only basis for change of a Bad Conduct discharge is clemency. The Applicant presented evidence, which the DRB opined, did not warrant granting clemency.

CONCLUSIONS: The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

Attachment:
Examiner's Brief

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

(Former AB) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 94/01/12 UP AFR 39-10 (Conviction by Court Martial). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 65/08/07. Enlmt Age: 20 1/12. Disch Age: 28 5/12. Educ: HS DIPL. AFQT: N/A. A-67, E-32, G-39, M-74. PAFSC: 2A353J - Aircraft Maintenance Journeyman. DAS: 92/06/09.

b. Prior Sv: (1) AFRes 85/09/18 - 86/01/10 (3 months 23 days) (Inactive).

(2) Enlisted as AB 86/01/10 for 4 yrs. Extended 88/07/05 for 4 months. Svd: 3 yrs 10 months 6 days, all AMS. AMN - 86/07/10. A1C - 87/05/30. SRA - 89/01/10. APRs: 9,9,9.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SRA 89/11/17 for 4 yrs. Svd: 04 Yrs 01 Mo 26 Das, of which AMS is 4 yrs 1 month 26 days, all AMS.

b. Grade Status: AB - 92/04/28 (SPCMO No.3, 92/04/28)
SGT - (EPR Indicates): 89/01/10-90/01/09

c. Time Lost: 92/02/18 thru 92/04/06 (1 month 19 days).

d. Art 15's: (1) 91/11/27, Osan AB, Korea - Article 134. You were, on or about 27 Oct 91, drunk and disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to A1C (suspended until 26 May 92), and forfeiture of \$75.00 pay per month for two months. (No appeal) (No mitigation)

e. Additional: none.

f. CM: Special Court Martial Order No.3 - 92 April 28.

CHARGE I: Article 107. Plea: Guilty. Finding: Guilty.

Specification 1: Did, on or about 27 Oct 91, with intent to deceive, sign an official document, to wit: Military Pay Order, which was false in that the dependent of said ----- had not arrived in country on 27 Jul 91, and was then known by said ----- to be so false.

Specification 2: Did, on or about 8 Nov 91, with intent to

deceive, sign an official document, to wit: a Travel Certification Letter, which document was false in that said ----- did not incur an authorized airline expense of \$460.00, and was then known by the said ----- to be false.

CHARGE II: Article 132. Plea: Guilty. Finding: Guilty.

Specification 1: Did, on or about 14 Jul 91, by presenting a DD Form 1561, Statement to Substantiate Payment of Family Separation Allowance, make a false claim against the United States in the amount of \$297.00 for family separation allowance, which claim was false and fraudulent in that the address of the dependent of said ----- was not -----, and was then known by the said ----- to be so false and fraudulent.

Specification 2: Did, on or about 22 Oct 91, make a false claim against the United States in the amount of \$702.16 for travel reimbursement and per diem payments, which claim was false and fraudulent in that no travel occurred on 27 Jul 91, and no reimburseable taxi or per diem expense was incurred on 27 Jul 91, and was then known by the said ----- to be so false and fraudulent. Sentence adjudged on 18 Feb 92: Bad conduct discharge, confinement for 2 months, forfeiture of \$500.00 pay per month for six months, and reduction to AB.

g. Record of SV: 89/01/10 - 90/01/09 Davis-Monthan AFB 3 (Annual)
 90/01/10 - 91/01/09 Davis-Monthan AFB 5 (Annual)
 91/01/10 - 92/01/09 Osan AB 3 (Annual)REF

(Discharged from Scott AFB)

h. Awards & Decs: AFAM 2/1 DEV, AFOUA W/1 DEV, AFGCM, AFOSSTR, AFLSAR, NCOPMER, AFTR.

i. Stmt of Sv: TMS: (08) Yrs (02) Mos (06) Das
 TAMS: (07) Yrs (10) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/03/04.
 (Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incident in 78 months of service with no other adverse action. Which happened during a time in my life while I was going through a tough divorce which impaired my judgement. I have never been in trouble before or after my problem in the Air Force. Even after I was court martialled and discharged from the Air Force I still supported my country by working for a defense contractor. Today I work for a major airline and make a pretty good living, the reason I ask for this upgrade is solely for myself. I believe I did an outstanding job in the Air Force for a major part of my career. I know I made a mistake I feel the punishment was way to extreme. I think 10 years of living with this is sufficient. Thank you for taking the time to consider this matter and I hope for a favorable response.

FD2002-0107

ATCH

1. Letter of Recommendation.
2. DD Forms 214 (Member 1 & 4).

02/06/24/ia