

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	UOHC	OTHER	DENY
[REDACTED]		X			
[REDACTED]		X			
[REDACTED]	X				
[REDACTED]	X				
[REDACTED]	X				

ISSUES A94.06	INDEX NUMBER A72.00	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	

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.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 15 Jul 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

FD01-0389

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 approved.

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 warrant granting clemency.

CONCLUSIONS: The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial was not appropriate under the facts and circumstances of this case and there is sufficient basis, as an act of clemency, for change of discharge. Therefore, the applicant's discharge should be changed to Honorable, Secretarial Authority.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]
(Former AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 90/11/26 UP Special Court Martial Order No.2 (Conviction by Court Martial). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 70/03/02. Enlmt Age: 18 8/12. Disch Age: 20 8/12. Educ:HS DIPL. AFQT: N/A. A-87, E-64, G-74, M-58. PAFSC: 62330 - Services Specialist. DAS: 90/04/20.

b. Prior Sv: (1) AFRes 88/11/23 - 89/01/19 (1 month 27 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 89/01/20 for 4 yrs. Svd: 01 Yrs 10 Mo 07 Das, of which AMS is 1 yr 1 month 25 das (excludes 8 months 12 days lost time)

b. Grade Status: AB - 90/03/20 (SPCMO# 4, 90/03/26)
AMN - 89/07/20

c. Time Lost: 90/03/14 Thru 90/11/26 (8 months 12 days)

d. Art 15's: (1) 89/02/03, Lackland AFB, TX - Article 80. You did, on or about 24 Jan 89, by means of knowingly false representations that you engaged in homosexual acts prior to enlistment when in fact you did not engage in such acts, attempt to procure yourself a separation from the United States Air Force. Forfeiture of \$161.00 per month for one month. (No appeal) (No mitigation)

e. Additional: none.

f. CM: Special Court Martial No.4 - 90 Mar 26

CHARGE I: Article 121. Plea: Guilty. Finding: Guilty.

Specification 1: Larceny of a wallet of a value of less than \$100.00 on or about 25 Jan 90, the property of Amn ----- Plea: Guilty. Finding: Guilty.

Specification 2: Larceny of \$150.00 on or about 26 Jan 90, the property of Amn ----- Plea: Guilty. Finding: Guilty.

Specification 3: Larceny of \$80.00 on or about 27 Jan 90, the property of Amn ----- Plea: Guilty. Finding: Guilty.

Sentence: adjudged on 14 Mar 90: Bad Conduct Discharge, confinement for 4 months, forfeiture of \$200.00 per month for 4 months, and reduction to airman basic.

g. Record of SV: none.

(Discharged from Lowry AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (03) Mos (22) Das
TAMS: (01) Yrs (01) Mos (25) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/06/21.
(Change Discharge to Honorable)

Issue 1: My Bad Conduct Discharge was based solely on a larceny charge of less than \$300.00. I had no other adverse actions prior to this case, no negative counseling, no records of tardiness or AWOL has been related to me. My character prior to this incident was reliable, trustworthy and hardworking. Before the trial, no counselings has been offered to me. Although legal representation was given to me by the military, the assigned military counsel, my Chain of Command or my Supervisors failed to advise (sic) me of my options to seek legal counsel outside the military. I was very young, barely 18 months in the military, very inexperienced and without proper advice or guidance, I had no other choice but to trust in the military system.

Issue 2: During my trial, no character references were called upon on my behalf which I found disturbing. And no evidence of larceny was presented before my case. The only reason this case existed was due to the fact that I turned myself into (sic) the authorities and by my own admission of guilt. But during my trial, none of the above was ever mentioned to attest for my character.

Issue 3: During my trial, they had mentioned an incident that had occurred (sic) to me while in Basic Training. I considered it to be damaging to my case and irrelevant for that matter. It was during a different time frame and a different location. It had nothing to do with my current duty locations or with what was going on in the present. It should have never been mentioned.

ATCH

1. Character Reference.

01/12/18/ia