

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
[REDACTED]	A1C	[REDACTED]

TYPE UOTHC	PERSONAL APPEARANCE	X RECORD REVIEW
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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 A01.13, A01.43, A92.21, A94.05	INDEX NUMBER A67.30	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 6 FEB 03	CASE NUMBER FD2002-0221	

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 Travis AFB, CA
Advise applicant of the decision of the Board.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 6 FEB 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

FD2002-0221

GENERAL: The applicant appeals for upgrade of discharge to honorable

The applicant's case was considered by the Discharge Review Board (DRB), at Travis AFB, CA on February 6, 2003. The applicant did not appear.

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

FINDINGS: The DRB grants the requested relief.

The DRB finds that the evidence of record and that provided by the applicant substantiates an inequity and an impropriety that would justify an upgrade of the discharge.

ISSUES: The applicant was discharged with an under other than honorable conditions (UOTHC) service characterization from the Air Force Reserve for commission of a serious offense (theft of government property) and for unsatisfactory duty performance. He had a letter of reprimand for insubordination, poor attitude, and irresponsibility, and an Article 15 for theft of government property in the amount of \$40. The member failed to respond to the notification of the discharge, which indicated a UOTHC characterization was the worst he could receive. The notification, however, failed to inform the applicant that he had a right to an administrative discharge board hearing. Having failed to respond, he waived his right to a discharge board hearing and to submit matters for consideration. The applicant now contends he did not steal any government property, but rather was taking it home in his privately owned vehicle in order to complete his military tasks, a practice he claims was necessary and sanctioned. This explanation was consistent with the applicant's reply to the 1988 Article 15 action.

CONCLUSIONS: The Discharge Review Board (DRB) concludes that the discharge was not consistent with the procedural and substantive requirements of the discharge regulation and was an abuse of discretion of the discharge authority. As a procedural matter, the failure to inform the applicant he was entitled to an administrative discharge board hearing was a fatal error. The discharge regulation specifically requires notification of that right. Failure to provide notification of the critical right cannot be ignored. In addition, the DRB was not convinced that the misconduct, while harmful, could properly be characterized as a serious offense. In that regard, the DRB determined that a discharge for commission of a serious offense was inappropriate and could not be sustained. As a substantive matter, the DRB found that the applicant's misconduct was insufficient to support a UOTHC characterization under any circumstances. That he failed to respond to the notification does not justify using a non-descriptive service characterization.

As a result, the applicant's characterization should be changed to honorable under the provisions of 10 USC 1553.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]
(Former A1C) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAF 89/04/18 UP AFR 35-41, para 5-50a, 5-50b, & 5-50c (Unsatisfactory Performance, & A Pattern of Misconduct - Commission of a Serious Offense. Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 56/02/22. Enlmt Age: 24 5/12. Disch Age: 33 1/12. Educ: HS DIPL. AFQT: N/A. A-60, E-65, G-80, M-55. PAFSC: 55255 - Civil Engineering Apprentice. DAS: 85/07/22.

b. Prior Sv: Enld AFRES 80/08/08 as A1C for 6 yrs. Svd: 6 yrs 1 month 8 days, of which AMS is 5 Mos 2 Days. SRA - 80/11/16. SGT - 84/01/20.

3. **SERVICE UNDER REVIEW:**

a. Reenld AFRes as SGT 86/09/17 for 6 yrs. Svd: 2 Yrs 7 Mo 1 Das, of which AMS is 1 month 21 days.

b. Grade Status: A1C - 88/02/07 (Article 15, 88/02/07)
SRA - 88/03/22 (Vacation of NCO Status, 88/03/22)

c. Time Lost: None.

d. Art 15's: (1) 88/02/07, McClellan AFB, CA, Article 121. You did, on or about 10 Jan 88, steal military property, of a value of about \$40.00, the property of the United States Government. Reduction in grade to A1C. (Appeal denied) (No mitigation)

e. Additional: LOR, 17 NOV 88 - Insubordination, irresponsibility, and poor attitude.

f. CM: None.

g. Record of SV: None.

(Discharged from McClellan AFB)

h. Awards & Decs: Unknown.

i. Stmt of Sv: TMS: (8) Yrs (8) Mos (11) Das
TAMS: (0) Yrs (6) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/05/20.