NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)			GRAD	GRADE AFSN/SS/			
			SRA				
TYPE							
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES NO							
X							
			VOTE OF THE BOARD				
MEMBERS SITTING		TING	HON	GEN	UOTHC	OTHER	DEN
							X
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ISSUES A94.05	1	INDEX NUMBER A84.00		EXHIBITS SUBMITTED TO THE BOARD			
				2 APPLICATION FOR REVIEW OF DISCHARGE			
			3 LI	TTER OF NOTI	ER OF NOTIFICATION		
HEARING DATE CASE NUMBER 15 MAY 03 FD2002-0468					F OF PERSONNEL FILE		
		*D2002-0468		COUNSEL'S RELEASE TO THE BOARD			
				ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
			T/	PE RECORDING (	OF PERSONAL	APPERANCE	HEARIN
APPLICANT'S ISSUE A	ND THE BOARD'S DECISIONAL RATION	AL ARE DISCUSSED ON THE ATTAC	ED AIR FORCE DISC	HARGE REVIEW BOA	RD DECISIONAL	RATIONALE.	
	nt of the decision of the Bolication to the AFBCMR.	pard, the right to a perso	nal appearand	ce with/withou	it counsel,	and the rig	ght to
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

**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 the evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

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

Issue. Applicant contends discharge was inequitable because "it was too harsh". The information provided by the applicant and contained in his records was carefully reviewed by the DRB. The records indicated the applicant had numerous AF Forms 40A, Record of Individual Inactive Duty Training with 78 periods of unexcused absences, two Letters of Reprimand, one Record of Individual Counseling and two Memorandums for Record for misconduct. The misconduct included provoking speeches and gestures, failure to obey a lawful order, and insubordinate conduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the unexcused absences and misconduct outweighed the otherwise satisfactory performance of this member.

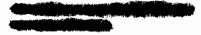
**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

In view of the foregoing findings the board further concludes that there exists no legal or equitable basis for upgrade, thus the applicant's discharge should not be changed.

Attachment: Examiner's Brief

FD2002-0468

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



(Former SRA) (HGH TSGT)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAFR 22 FEB 00 UP AFI 36-3209 (Unsatisfactory Participation). Appeals for Honorable Disch.

# 2. BACKGROUND:

a. DOB: 14 Aug 54. Enlmt Age: 23 5/12. Disch Age: 45 6/12. Educ: HS DIPL. AFQT: N/A. A-53, E-90, G-76, M-87. PAFSC: 2T251 - Air Transportation Journeyman. DAS: 6 Oct 95.

b. Prior Sv: (1) AFRes 6 Feb 78 - 3 May 78 (2 months 28 days) (Inactive).

(2) Enlisted as AB 4 May 78 for 4 yrs. Extended 8 May 80 for 4 months. Extended 22 Oct 81 for 5 months. Svd: 4 yrs 10 months 0 days, all AMS.

(3) Enlisted AFRes as SSGT 7 Jan 84 for 1 yr. Reenlisted 9 Dec 84 for 2 yrs. Reenlisted 6 Dec 86 for 2 yrs. Reenlisted 21 Feb 88 for 2 yrs. Extended 23 Feb 90 for 6 months. Extended 18 Aug 90 for 3 months. Svd: 6 yrs 10 months 21 days, of which AMS is 1 yr 1 month 7 days.

(4) Enlisted ANG as SSGT 21 Nov 90 for 3 yrs. Extended 17
Nov 93 for 24 months. Svd: 4 yrs 10 months 15 days, of which AMS is 10 months 5 days. AMN/A1C - (Enlistment documents indicate: 4 May 78-8 May 80. SrA - 1 Jan 81. Sgt - 1 Jan 81. SSgt - 1 Nov 83. TSgt - 1 Aug 92. No performance reports available.

### 3. SERVICE UNDER REVIEW:

a. Enlisted AFRes as TSgt 18 Nov 95 for 6 yrs. Svd: 4 Yrs 3 Mos 4 Das, of which AMS is 14 days.

- b. Grade Status: SrA 9 Jun 98(Demotion, Reserve Order AA-16, 13 Jul 98) SSgt - 18 May 98 (Voluntary Demotion)
- c. Time Lost: None.
- d. Art 15's: None.
- e. Additional: RIC, 23 FEB 97 Failure to bring mobility bag, late reporting for formation, and found sleeping on duty on two occasions. AF FORMS 40, 15 MAR 97-26 MAY 99 - Seventy eight unexcused UTA absences. MEMO, 5 DEC 96 - Multiple cases of unacceptable behavior. MFR, 24 NOV 96 - Unacceptable behavior.

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f. CM: None.

g. Record of SV: 18 Nov 95 - 30 Oct 97 Travis AFB 1 (CRO)REF

(Discharged from Travis AFB)

h. Awards & Decs: AFOUA W/1 DEV, AFGCM, ARFMSM W/1 DEV, NDSM, SWASM, AFOSSTR, AFOSLTR, AFLSAR W/3 DEVS, AFRM, AFTR.

i. Stmt of Sv: TMS: (16) Yrs (10) Mos (19) Das TAMS: (6) Yrs (9) Mos (27) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Oct 02. (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Statement to the Discharge Review Board.
- 2. Copy of Reserve Order A-131.
- 3. Statement of Witness, 26 Jul 02.
- 4. Organizational Chart.

5. DD Forms 214.

- 6. NGB Form 22.
- 7. Character References.
- 8. Resume.

5FEB03/ia

52002-0468 7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.) WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS. ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.) X a. DOCUMENT 1: MY SIGNED STATEMENT, ENUMERATING MY CASE: SUBJECT: "REQUEST FOR DISCHARGE STATUS CHANGE" b. DOCUMENT 2: RESERVE ORDER A-131, GENERAL DISCHARGE, DATED: 07 FEB 2000 C. DOCUMENT 3: "STATEMENT OF WITNESS .... ", JOHN ALCONERA, TSgt, DATED: 26 JULY 2002 HMENT 8. ISSUES The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment. MY GENERAL DISCHARGE WAS UNJUSTIFIED RECAUSE IT WAS BASED ON AN INCOMPLETE INVESTIGATION OF REASONS FOR UNSATISFACTORY PARTICIPATION, BY THE UNIT SENIOR NOO AND UNIT COMMANDER OF THE 82 ND APS ATTACHED TO MY GENERAL DISCHARGE, I WAS GIVEN AN ARTICLE IS THAT RESULTED IN FORITURE OF MY FEB 22 AND 23, 1997 RESERVE PAY AND REDUCTION OF RANK FROM STAFF SERGEANT TO SENIOR AIRMAN, WHICH WAS MY PUNISHMENT FOR THE INCIDENT WITH SSGT ABOUT NOVEMBER 23, 1996. THE ARTICLE IS WAS UNWARRANTED DUE TO THE ABSENCE OF MY STATEMENT AND MY WITNESS AFTER THE INCIDENT AND THAT MY UNIT DID NOT COMPLETELY CONTACT ME AT MY HOME OR WORK LOCATION TO SET MY SIDE OF THE INCIDENT. MY MILITARY CAREER WAS UNJUSTLY INTERRUPTED A HALTED BECAUSE OF THE UNPROFESSIONAL MANNER THE RESPONSIBLE NOO'S AND OFFICERS, INVOLVED, HANDLED AND MANAGED ME, PLACING ME IN A SITUATION BEYOND MY REACH OF RETIRING SUCCESSFULLY FROM THE US AIRFORCE. I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION. (SEE MY SIGNED STATEMENT) Х I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES. THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED. 9. CERTIFICATION I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.) a. DATE (YYYYMMDD) b. SIGNATINE 20021027 UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW ARMY **NAVY & MARINE CORPS** AIR FORCE COAST GUARD Army Review Boards Agency -01 Naval Council of Personnel Boards Support Division, St. Louis SAF/MIBR Commandant (G-WPM) 720 Kennon Street, S.E. ATTN: SFMR-RBR-SL 550-C Street West, Suite 40 2100 Second Street, S.W. Rm. 309 (NDRB) 9700 Page Avenue Randolph AFB, TX 78150-4742 Washington, DC 20593-0001 Washington Navy Yard, DC St. Louis, MO 63132-5200 🔗 20374-5023 (See http://arba.army.pentagon.mil)

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October 28, 2002

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To: Discharge Review Board

Subject: Request for Discharge Status Change

1. The following events will be enumerated that led me, (SSgt) **Constant and Section**, to involuntarily discontinue my attendance with the prescribed scheduled Unit Training Assembly (UTA) of the 82nd Airial Port Squadron (APS) (AFRES).

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2. My last reserve participation (duty) date with the 82nd APS UTA was on February 23, 1997 (Sunday). That date was on the scheduled UTA weekend of February 22 and 23, 1997. During that date, my rank was a Staff Sergeant (SSgt). Prior to my service with the 82nd APS, I served with the 129 Rescue Group, Moffett Federal Airfield, conjugated with volunteer service in "Desert Storm / Desert Shield" (per my DD Form Service Record).

3. To begin, on February 23, 1997 (Sunday), 4:30pm, I reported to my end of UTA, "roll call" at the cargo building (building no. 977). Before the "roll call" started, I was approached by Senior Master Sergeant (SMS) **Call Control** and the instructed me to report to him after the final UTA "roll call" and the payroll sign-out process.

4. Before the meeting with SMS Gower, I spoke to Master Sergeant (MSgt) to the set of th

5. After the UTA "roll call" and the payroll sign-out process, as ordered, I reported to SMS at 82 APS Headquarters (building no. 921). MSgt (Ramp NCOIC / Supervisor) was along side with SMS (Ramp at that time. Then, in a short while MSgt joined us. I was approximately past 5:00pm that evening. All four of us proceeded to 1st Lieutenant (Air Terminal Operation Center (ATOC) Officer-in Charge (OIC)).

6. At the start of the meeting, SMS **Charthe** brought up the matter with the incident that happened on about November 23, 1996 (Saturday), a scheduled UTA. The incident happened during the morning session in the Explosives Safety Handling Training. The incident was of the matter involving: a disturbance and "conduct unbecoming of an Noncommissioned Officer (NCO)" that involved SSgt **Charter of Counseling**" pertaining to the incident on about November 23, 1996. The "Letter of Counseling" was handed to me for review. The document specified me as the primary perpetrator and fault of the incident.

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7. Then, SMS and the directed me to sign the "Letter of Counseling". In response, I replied to SMS and that the "Letter of Counseling" was unjustified against me. I emphasized that the incident on about November 23, 1996, as documented on the "Letter of Counseling" was not my primary fault. I, then, declared that I have an eye witness that will testify that I was not the primary person in violation of the charges stated in the "Letter of Counseling". (See Attachment No. 1). I, then, told SMS that I respectfully decline to sign the "Letter of Counseling".

8. Please, see Attachment No. 1 (Signed Affidavit of witness): Dated: July 26, 2002; From: TSgt **Conduct Unbecoming of** an Noncommissioned Officer. Notarized on September 4, 2002, by **Conduct Unbecoming** Commission # 1214245, Notary Public - California, Solano County, expires: May 28, 2003.

9. SMS sectors insisted that I sign the "Letter of Counseling" regardless of my declaration that the incident was not my fault and that a witness is available to prove my innocence. Then, SMS stated that he will not release me that evening until I sign the "Letter of Counseling". I, replied that I can not be required to sign the "Letter of Counseling" without due process.

10. Close to 6:00pm that evening, I requested to all senior NCO's: SMS **Constant**, MSgt **Constant**, and MSgt **Constant** that I be released from the meeting. I stated that "I believe I am already off-duty since I have already electronically (payroll) signed out from the squadron. SMS **Constant**, still, refused and denied my request. MSgt **Constant** denied my request, also. SMS **Constant** and MSgt **Constant** insisted that I sign the "Letter of Counseling", repeatedly.

11. Then, I replied that I am already "off-duty" and that my duty hours has past over an hour ago. I, then, tried to leave the meeting room (1st Lt. the second office) because I believe my individual rights were being violated.

13. Immediately, MSgtand Fordered me to remain in the meeting room. He ordered SMS Compared MSgtand to detain me. I remained in the meeting room as ordered. Then, MSgtand Meft the meeting room. SMS Compared, MSgtand, and I waited in the meeting room for approximately 15 minutes.

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14. The Travis AFB Law Enforcement (LE) Officers soon arrived at the meeting room. The LE Officers, then, said that I was under arrest. I asked the LE Officers, what I was being arrested for. The LE Officers replied that I as being arrested for insubordination. I was, then, hand cuffed, my rights read, led to the police car with other office workers witnessing the arrest, transported to the police station, and placed in the stockade. I signed a detention document in the police station and placed in a locked detention cell.

15. Lt.Col. (82nd APS Commander) arrived at the police station close to 7:00pm that evening. Lt. Col. (1997) refused to see me after I made a request to the prison guard to see the commander. Shortly, the police station officer in charge released me from the stockade under Lt. Col. (1997) orders. I spent approximately one (1) hour in the police detention. I was released without release papers as I requested from the police NCOIC.

16. Then, I was escorted to my vehicle and told not to return. I was escorted to the main gate out of Travis AFB. The releasing LE officer was also the escorting LE officer.

17. I proceeded to travel to my home with deep disappointment of the incident with SMS MSgt MSgt MSgt MSgt

18. Following, on March 3, 1997, I took a "personal day off" from my civilian job. At that time, I was working for Pacific Bell Company as a Service Technician. (During that date of employment with Pacific Bell, I was under "New Hire Probationary Period". I had less than 6 month service tenure with the company. I was working numerous mandatory company overtime to fulfill service order and repair orders for residential and business telecommunication lines. This time of year was very busy due to the high public and commercial demand for internetwork technology (dot com progressive era) access (connection) through orders for second or subsequent need of copper phone lines. During that year, Asymmetric Digital Subscriber Lines (ADSL) service was not available to both the public and the private business sector. Under the company policy's "New Hire Probationary Period" status, I was required to work over time on Fridays prior to my schedule UTA's. Refusing to work the over time subjects my company position to being placed on report and threat of termination.) I traveled to Travis AFB to seek advise and resolutions to my February 23, 1997 incident.

19. First, I visited the 349 Air Mobility Wing (AMW) Commander's office to take the opportunity of the "Open Door Policy" of Commander (349 AMW) (349 AMW) Commander). The Commander's Executive Secretary, Commander referred and called (349 AMW) Inspector General (IG)).

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28. On about July 31, 1999, I called the 82nd APS to establish contact even with the fears that I still have about SMS (MS), MSgt and MSgt (MS), I, Eventually, spoke to CMSgt (MS), CMSgt established that my discharge papers were officially completed that month with an unsatisfactory reason. The reason was for "on-participation". However, I did not know the type of discharge during my brief conversation with CMSgt (MS).

29. Recently, on the month of June, I have made contact with MSgt (USAFR Recruiter, Alameda, CA.) to attempt to return to the active ready Air Force Reserves. I was made aware of my discharge status from the 82nd APS as being typed: General Discharge.

30. In view of my disappointing experiences of this matter, I believe that I am innocent of charges brought to me by my peers in the 82nd APS, Travis AFB. From the initial incident that occurred on November 23, 1996 to the February 23, 1997 incident, I believe, was oppressive towards me. I believe, I was not at fault of both incidents that led me to my involuntary inactivity with the scheduled 82nd ASP UTA's.

31. I would like to express my deep desire and request that the Discharge Review Board to consider my appeal to change my discharge from "General Discharge" to "Honorable Discharge" with the USAFR active ready reserves because of my good character as a professional noncommissioned officer as indicated by the evidence and my service record. I believe that my discharge was inequitable because it was based on incidents beyond my control in over 17 years of service with no other adverse action.

32. I, also, deeply desire that the Discharge Review Board consider the article 15, which the reduction of rank from Staff Sergeant to Senior Airman was a result, to be reversed enlighten of the evidence provided and my previous service record. I believe that the evidence provided shows that I have conducted myself with the high standard expected of a noncommissioned officer.

33. In conclusion, I would deeply desire to continue my voluntary career commitment with the US Air Force Reserves, to serve my country, and to reach the retirement tenure as I desired since July 1983, when I initially enlisted with the US Air Force Reserves. I believe that the USAFR will benefit from my professional skills and experiences.

"I declare under penalty of perjury under the laws of the UCMJ that the foregoing is true and correct"

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# DEPARTMENT OF THE AIR FORCE

AIR FORCE RESERVE COMMAND



1 8 NOV 1999

MEMORANDUM FOR

Monterey CA 93940-5416

FROM: HQ AFRC/DPM 155 2nd St Robins AFB GA 31098-1635

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum, separation action is being initiated against you for unsatisfactory participation. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.13.2. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions) and Under Other Than Honorable Conditions. The type of separation recommended in your case is a General (Under Honorable Conditions) Discharge.

2. Within 24 hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.

3. The following is a summary of your rights:

a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no cost to you. You may also consult with civilian legal counsel of your choice, but at your own expense. Captain **Security** a Judge Advocate who is qualified under Article 27(B)(1), UCMJ, has been designated to represent you in connection with this separation action. Her mailing address is HQ AFRC/JAS, 155 2nd St, Robins AFB GA 31098-1635. Her phone numbers are DSN 497-1588, 1-800-458-5391, or (912) 327-1588.

b. You have the right to submit pertinent statements and/or documents in your behalf which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 2nd St, Robins AFB GA 31098-1635.

c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 2nd St, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by completing and returning the attached form (Atch 6), evidencing your waiver. Information regarding an administrative discharge board is provided at Attachment 7.

5. You are not eligible to apply for transfer to the Retired Reserve.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes are attached (Atch 8) for your convenience.

UŠAI Chief, Military Personnel Operations Military Personnel Division

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Attachments:

- 1. Privacy Act Statement
- 2. Statement of Reasons w/
- Supporting Documentation
- 3. Acknowledgment of Receipt
- 4. Selection of Rights
- 5. Request for Board Hearing
- 6. Waiver of Board Hearing
- 7. Discharge Board Info
- 8. Envelopes (2)

cc:

HQ AFRC/JAS 349 MSS/DPMSA (Relocation) wo Attachments