

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

| | | | | | | |
|--|-------------------------------|--|--|--|--------------------------------|----------|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] | | GRADE AMN | AFSN/SSAN [REDACTED] | | | |
| 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 |
| [REDACTED] | | | | | | X |
| | | | | | | X |
| | | | | | | X |
| | | | | | | X |
| | | | | | | X |
| ISSUES A94.05 | INDEX NUMBER A67.50 | 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 | |
| HEARING DATE 6 MAY 03 | | CASE NUMBER FD2002-0487 | | 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, 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] | | | |
| INDORSEMENT | | | | DATE: 6 MAY 03 | | |
| 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 | | | |

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0487

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 substantiates an inequity or impropriety, which would justify a change of discharge.

ISSUE: Applicant contends that his discharge was too harsh because he gave 15 years of his life to the military and needs his discharge upgraded. The record indicates the applicant received an Article 15 for driving while drunk. He also received a General Court Martial for resisting arrest, being drunk and disorderly, wrongfully communicating a threat to injure his wife, wrongfully communicating indecent language to his wife, failure to go, being disrespectful toward a superior officer, disobeyed a lawful order to not drink alcoholic beverages, and willfully damaging government property. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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.

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

Attachment:
Examiner's Brief

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

(Former AMN) (HGH SSGT)

1. MATTER UNDER REVIEW: Appl rec'd a UOTHC Disch fr USAF 11 Jan 90 UP AFR 39-10, para 5-47a (A Pattern of Misconduct - Discreditable Involvement with Military and Civil Authorities). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 16 Jan 56. Enlmt Age: 18 8/12. Disch Age: 33 11/12. Educ: HS DIPL. AFQT: N/A. A-34, E-60, G-50, M-63. PAFSC: 81150 - Security Specialist. DAS: 6 Jun 89.

b. Prior Sv: (1) AFRes 19 Sep 74 - 1 Dec 74 (2 Mos 13 Days) (Inactive).

(2) Enld as AB 2 Dec 74 for 4 yrs. Reenld as SRA 14 Dec 77 for 4 yrs. Ext: 24 Jan 79 for 3 months. Ext: 23 Mar 81 for 12 months. Reenld as SSGT 30 Sep 82 for 6 yrs. Ext: 20 Sep 88 for 2 months. Svd: 13 Yrs 11 Mos 28 Days, all AMS. AMN - Unknown. AIC - (EPR Indicates): 2 Dec 74 - 2 Dec 75. SRA - 1 Sep 77. SGT - (EPR Indicates): 16 Jun 78 - 17 Jan 79. SSGT - 1 Sep 81. APRs: 8,8,9,9,9,9,8,9,9,9,9,9,9,9,9,9,7(REF).

3. SERVICE UNDER REVIEW:

a. Reenld as SSGT 30 Nov 88 for 6 yrs. Svd: 1 Yr 1 Mo 13 Das, of which AMS is 11 Mos 27 Das, (Ex: 1 Mo 16 Das lost time).

b. Grade Status: AMN - 14 Dec 89 (GCM Order No. 4, 14 Dec 89)
SGT - 26 Jun 89 (Article 15, 26 Jun 89)

c. Time Lost: 46 Days (1 Oct-5 Oct 89 & 10 Oct-19 Nov 89)

d. Art 15's: (1) 26 Jun 89, Nellis AFB, NV - Article 111. Preliminary investigation has disclosed that you did, on or about 9 Jun 89, operate a vehicle, to wit: a pickup truck, while drunk. Reduction to Sgt, and suspended forfeiture of \$250.00 pay per month for two months. (Appeal/Denied) (No mitigation)

e. Additional: None.

f. CM: General Court Martial Order, No. 4, 14 December 1989.

CHARGE 1. Article 95. Plea: Guilty. Finding: Guilty.

Specification: Did, at near Nellis AFB, NV, on or about 1 Oct 89, resist being apprehended.

CHARGE II. Article 107. Plea: Not Guilty. Finding: Not Guilty.

CHARGE III. Article 128. Plea: Not Guilty. Finding: Not Guilty.

CHARGE IV. Article 134. Plea. Guilty. Finding: Guilty.

Specification 1: Was, at or near Nellis AFB, NV, on or about 28 Sep 89, drunk and disorderly.

Specification 2: Was, at or near Nellis AFB, NV, on or about 1 Oct 89, drunk and disorderly.

Specification 3. Did, at or near Nellis AFB, NV, on or about 28 Sep 89, wrongfully communicate a threat to injure ----- by throwing her through the kitchen window and door.

Specification 4. Plea: Not Guilty. Finding: Not Guilty.

Specification 5. Did, at or near Nellis AFB, NV, or or about 28 Sep 89, wrongfully communicate indecent language to -----.

Specification 6. Did, at or near Nellis AFB, NV, on or about 1 Oct 89, wrongfully communicate indecent language to -----.

ADDITIONAL CHARGE 1. Article 86. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Nellis AFB, NV, or or about 10 Oct 89, without authority, failed to go to appointed place of duty.

ADDITIONAL CHARGE II. Article 89. Plea: Guilty. Finding: Guilty.

Specification: Was, at or near Nellis AFB, NV, on or about 10 Oct 89, disrespectful toward a superior commissioned officer.

ADDITIONAL CHARGE III. Article 90. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Nellis AFB, NV, on or about 10 Oct 89, disobey a lawful order not to drink alcoholic beverages.

ADDITIONAL CHARGE IV. Article 108. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Nellis AFB, NV, on or about 10 Oct 89, willfully damage government property in an amount over \$100.00. Plea: Guilty. Finding: Guilty as pleaded except the words "damage a doorknob by breaking it off the door".

ADDITIONAL CHARGE V. Article 134. Plea: Guilty: Finding: Guilty.

Specification: Was, at or near Nellis AFB, NV, on or about 10 Oct 89, drunk and disorderly. Sentence adjudged on 15 Nov 89: Confinement for 60 days and reduction to AMN.

g. Record of SV: None.

(Discharged from Nellis AFB)

h. Awards & Decs: AFSAEMR, USAFNCOPMEGR, AFLSR W/2 OLC, AFOLTR, AFTR, AFOUA W/2 OLC, AFGCM W/1OLC, AFCM W/3 OLC, AFAM.

i. Stmt of Sv: TMS: (15) Yrs (2) Mos (8) Das
TAMS: (14) Yrs (11) Mos (24) Das

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

Issue: I need my discharge upgrade. Please it's my life and I gave 15 yrs of my life to the military.

ATCH
None.

13Feb03/cr



DEPARTMENT OF THE AIR FORCE

554TH TRANSPORTATION SQUADRON (TAC)
NELLIS AIR FORCE BASE NV 89191-5000

FD2002-0487

REPLY TO
ATTN OF: CC

11 DEC 1989

SUBJECT: Notification Letter - Board Hearing

TO: [REDACTED], 554 Trans

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, discreditable involvement with military or civil authorities, according to AFR 39-10, under the provisions of paragraph 5-47a. Copies of the documents to be forwarded to the separations authority to support this recommendation are attached.

2. My reasons for this action are:

a. In that you did, at Las Vegas, Nevada, on or about 7 June 1989, operate a motor vehicle while drunk, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 7 June 1989;

b. In that you did, at Nellis Air Force Base, Nevada, on or about 9 June 1989, operate a vehicle, to wit: a pickup truck, while drunk, as evidenced by an Article 15 dated 26 June 1989, a Report of Sobriety Examination (NAFB Form 0-46) dated 9 June 1989, an Incident/Complaint Report (DD Form 1569) dated 9 June 1989, statements of [REDACTED], and your response to the Article 15 dated 26 June 1989;

c. In that you did, at or near Las Vegas, Nevada, on or about 12 June 1989, operate a motor vehicle while drunk, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 20 June 1989, and a Temporary Custody Record (LVMPD Form 22) dated 20 June 1989;

d. In that you were, at Nellis Air Force Base, Nevada, on or about 28 September 1989, drunk and disorderly, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 28 September 1989, the sworn statements of [REDACTED], an Alcohol Influence Report (DD Form 1920) dated 28 September 1989, and a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

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Readiness is our Profession

e. In that you did, at Nellis Air Force Base, Nevada, on or about 28 September 1989, orally communicate to [REDACTED] indecent language, to wit: "take my fucking kids and get the hell out", as evidenced by an Incident/Complaint Report (DD Form 1569) dated 28 September 1989, the sworn statement of [REDACTED] and a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

f. In that you did, at Nellis Air Force Base, Nevada, on or about 1 October 1989, wrongfully resist being apprehended by Security Policemen, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 1 October 1989, the sworn statement of [REDACTED] and a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

g. In that you were, at Nellis Air Force Base, Nevada, on or about 1 October 1989, drunk and disorderly, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 1 October 1989, the sworn statements of [REDACTED], an Alcohol Influence Report (DD Form 1920) dated 1 October 1989, a Report of Sobriety Examination (NAFB Form 0-46) dated 1 October 1989, and a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

h. In that you did, at Nellis Air Force Base, Nevada, on or about 1 October 1989, orally communicate to [REDACTED] indecent language, to wit: "bitch, cunt, fucking liar, you're out of here now bitch, that's it bitch, fucking slut", as evidenced by an Incident/Complaint Report (DD Form 1569) dated 1 October 1989, the sworn statements of [REDACTED] and a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

i. In that you did, at Nellis Air Force Base, Nevada, on or about 10 October 1989, fail to go at the time prescribed to your appointed place of duty, as evidenced by a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

j. In that you were, at Nellis Air Force Base, Nevada, on or about 10 October 1989, disrespectful in language toward [REDACTED], a superior commissioned officer, by stating that [REDACTED] was a "no good son of a bitch" and that [REDACTED] could "suck your ass", as evidenced by a Report of Result of Trial (AF Form 1359) dated 15 November 1989, and the statement of [REDACTED]

k. In that you did, at Nellis Air Force Base, Nevada, on or about 10 October 1989, disobey a lawful order from [REDACTED] not to drink alcoholic beverages, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 10 October 1989, and a Report of Result of Trial (AF Form 1359) dated 15 November 1989;

l. In that you did, at Nellis Air Force Base, Nevada, on or about 10 October 1989, without proper authority, willfully damage government property, to wit: a chair, a bed frame, two dressers, and a carpet, the amount of the damage being in excess of \$100.00, as evidenced by a Report of Result of Trial (AF Form 1359) dated 15 November 1989, a 554 OSW/LGT letter dated 16 October 1989, and an Incident/Complaint Report (DD Form 1569) dated 10 October 1989; and

m. In that you were, at Nellis Air Force Base, Nevada, on or about 10 October 1989, drunk and disorderly, as evidenced by an Incident/Complaint Report (DD Form 1569) dated 10 October 1989, the statements of [REDACTED] and an Alcohol Influence Report (DD Form 1920) dated 10 October 1989, and a Report of Sobriety Examination NAFB

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for or have had a medical examination at the USAF Hospital, Physical Exam Section at 0630 hours on 10 Jul 89.


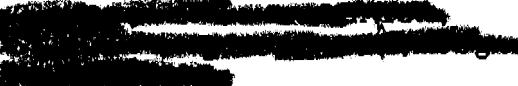
6. Military legal counsel, Bldg P-47, duty phone 24034, has been obtained to assist you. An appointment has been scheduled for you to consult him/her at 0900 hours on Monday 11 Dec 89. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing within seven (7) workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the Unit Orderly Room.

9. Execute the attached acknowledgment and return it to me immediately.


Commander

- 29 Atchs
1. DD Form 1569, dtd
7 Jun 89
 2. AF Form 3070, dtd
26 Jun 89
 3. Report of Sobriety
Examination, dtd 9 Jun 89
 4. DD Form 1569, dtd
9 Jun 89
 5. Statements of 

 6. The respondent's
response to the Article 15
 7. DD Form 1569, dtd
20 Jun 89
 8. LVMPD Form 22, dtd
20 Jun 89
 9. DD Form 1569, dtd
28 Sep 89

10. Sworn Statements of

[REDACTED]

11. DD Form 1920, dtd
28 Sep 89

12. AF Form 1359, dtd
15 Nov 89

13. DD Form 1569, dtd
28 Sep 89

14. Sworn Statement of

[REDACTED]

15. AF Form 1359, dtd
15 Nov 89

16. DD Form 1569, dtd
1 Oct 89¹

17. Sworn Statements of

[REDACTED]

18. AF Form 1359, dtd
15 Nov 89

19. DD Form 1569, dtd
1 Oct 89

20. DD Form 1920, dtd
1 Oct 89

21. NAFB Form 0-46, dtd
1 Oct 89

22. AF Form 1359, dtd
15 Nov 89

23. Statement of

[REDACTED]

24. DD Form 1569, dtd
10 Oct 89

25. AF Form 1359, dtd
15 Nov 89

26. 554 OSW/LGT ltr, dtd
16 Oct 89

27. DD Form 1569, dtd
10 Oct 89

28. Statements of

[REDACTED]

29. DD Form 1920, dtd
10 Oct 89

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