

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)			GRADE		AFSN/SSAN			
██████████			SSgt		██████████			
TYPE	X	PERSONAL APPEARANCE			RECORD REVIEW			
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No							
MEMBER SITTING				VOTE OF THE BOARD				
				HON	GEN	UOTHC	OTHER	DENY
				X*				
								X
				X*				
				X*				
X*								
ISSUES	A94.06	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 DATE	04 Dec 2003	CASE NUMBER	FD-2003-00165					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE								
<p>Case heard at Randolph AFB, Texas.</p> <p>Advise applicant of the decision of the Board.</p> <p>* Secretarial Authority</p>								
INDORSEMENT				DATE: 12/5/2003				
TO:	SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002				

[Handwritten Signature]

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00165

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared before the DRB at Randolph AFB, Texas and was represented by [REDACTED] of the Texas Veterans Commission.

The following additional evidence was presented by the applicant at his hearing:

- Exhibit #6: DD Form 457, 9 Nov 87, Article 32 Investigation (4 pages)
- Exhibit #7: OSI Report Excerpt, Report # 8768D4-24
- Exhibit #8: JAM Letter, 14 Apr 87
- Exhibit #9: Letter from MSgt [REDACTED], 5 Mar 90
- Exhibit #10: AF Form 332, BCE Work Request, 22 Sep 86
- Exhibit #11: Statement from MSgt [REDACTED], 6 Jan 88
- Exhibit #12: Letter from MSgt [REDACTED], 25 Jan 89
- Exhibit #13: Extract of DLAM 4145.2, Table A-16
- Exhibit #14: Statement from MSgt [REDACTED], 14 Mar 89
- Exhibit #15: AF Form 3132, Equipment Inventory, Undated
- Exhibit #16: Letter from Capt [REDACTED], 21 Dec 88
- Exhibit #17: Statement from Capt [REDACTED], 30 Nov 88
- Exhibit #18: Summary of Testimony by [REDACTED]
- Exhibit #19: Transcript of Deposition of [REDACTED], Undated
- Exhibit #20: Letter from LtCol [REDACTED], Undated

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

FINDINGS: The discharge is upgraded to Honorable.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

ISSUE: Applicant contends his discharge was inequitable because the discharge authority was deprived of additional evidence, which if made available in a timely manner, may have exonerated him of the offense for which he was discharged. The records indicated the applicant received two Article 15s, the first one for wrongfully soliciting other Airmen to make false official statements and for being derelict in the performance of his duties. The other Article 15 was for attempting to steal two video cassette recorders. Significant to the latter offense, and that which ultimately resulted in the applicant's discharge was the appearance of a planned theft, by the identification of two packages, wrapped in plain brown paper, with no address or identifying markings, other than a P (for Panasonic) on one and an H (for Hitachi) on the other. The applicant subsequently asked for and was granted delays in further processing of his discharge, pending receipt of expected witness statements on his behalf. However, due to no fault of the applicant (caused by delays in mail due to contamination), two letters from members of the applicant's supervisory chain were ultimately received, which fully explains the reason for the packaging of the VCRs; the packaging was directed by the applicant's supervisor for later delivery to a dormitory. The delivery of the VCRs to the dormitory was further delayed, pending completion of a work order to construct a device to secure the VCRs, as this was a high theft item on the base. The Board opined the information which was not made available to the discharge authority resulted in an inequity in the processing of the applicant's 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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority under the provisions of Title 10, USC 1553. In addition, the Re-enlistment Code should be changed to 3K.

Attachment:
Examiner's Brief

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

(Former SSGT) (HGH TSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 4 APR 88 UP AFR 39-10, para 5-49d (Misconduct - Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 10 Feb 59. Enlmt Age: 17 10/12. Disch Age: 29 1/12. Educ: HS DIPL. AFQT: N/A. A-75, E-96, G-96, M-90. PAFSC: 64570 - Inventory Management Supervisor. DAS: 1 Jul 86.

b. Prior Sv: (1) AFRes 15 Dec 76 - 21 Sep 77 (9 months 7 days) (Inactive).

(2) Enlisted as AB 22 Sep 77 for 4 yrs. Extended 21 Apr 81 for 23 months. Svd: 5 yrs 10 months 23 days, all AMS. AMN - Unknown. A1C - 23 Sep 78. SRA - 1 Jul 80. SGT - 1 Jul 81. SSGT - 1 Apr 83. APRs: 8,7,8,9,9,9,9.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 15 Aug 83 for 4 yrs. Extended 4 Mar 86 for 12 months. Svd: 4 Yrs 7 Mos 20 Das, all AMS.

b. Grade Status: SSgt - 15 Jan 88 (Article 15, 15 Jan 88)
TSgt - 01 Jul 86

c. Time Lost: None.

d. Art 15's: (1) 15 Jan 88, Comiso AS, Italy - Article 80. You, did, from on or about 1 Jul 86, to on or about 17 Apr 87, attempt to steal a Hitachi video cassette recorder, of a value in excess of \$100.00, the property of the United States. Further, you, did, from on or about 1 Jul 86 to on or about 17 Apr 87, attempt to steal a Panasonic video cassette recorder, of a value in excess of \$100.00, the property of the United States. Reduction to SSgt, forfeiture of \$600.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 21 Mar 85, Lackland AFB, TX - You, did, on or about 24 Jan 85, wrongfully solicit SSgt [REDACTED] and SSgt [REDACTED] to make false official statements, by requesting them to take a prepunched computer card to the Individual Equipment Unit and to state that they had accidentally sent this card over to Demand Processing which statements were totally false and known by you to be totally false. Furthermore you,

on or about 24 Jan 85, having knowledge of your duties, were derelict in the performance of your duties in that you willfully failed to refrain from using a supply computer terminal to order an unauthorized item of equipment, to wit: a flight jacket, as it was your duty to do. Suspended reduction to Sgt, forfeiture of \$250.00 pay per mont for one month, and 14 days correctional custody. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 15 Mar 83 - 09 Jan 84 Lackland AFB 9 (CRO)
 10 Jan 84 - 13 Jun 84 Lackland AFB 9 (CRO)
 14 Jun 84 - 03 Dec 84 Lackland AFB 8 (CRO)
 04 Dec 84 - 05 Jun 85 Lackland AFB 8 (CRO)
 06 Jun 85 - 23 Apr 86 Lackland AFB 9 (CRO)
 24 Apr 86 - 19 Nov 86 Comiso AS 9 (CRO)

(Discharged from McGuire AFB)

h. Awards & Decs: AFTR, AFGCM(OLC), AFLSAR(OLC), NCOPMER, SAEMR(OLC), AFOUAR(3 OLCS), AFOSSTR(OLC).

i. Stmt of Sv: TMS: (11) Yrs (3) Mos (20) Das
 TAMS: (10) Yrs (6) Mos (14) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 2 Apr 03.
 (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Recommendation for Discharge Upgrade.
3. DD Form 214.

14MAY03/ia

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.)

a. DOCUMENT 1:
Statement from [redacted] Applicant, dated 02 APR 03

b. DOCUMENT 2:
Statement from Lieutenant Colonel [redacted] Commander, AFOSI Detachment 107, Kelly AFB, Texas (May 98)

c. DOCUMENT 3:
Copy of DD Form 214, Certificate of Release or Discharge from Active Duty for [redacted]

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.

This application for an upgrade to my discharge is submitted for approval based on the attached statement and recommendations of the former Commander of the Air Force Office of Special Investigations (AFOSI) Detachment #107, Kelly Air Force Base, Texas. This statement is evidence of 'Outstanding Postservice Conduct', the sole issue raised in this application. Additionally, I have provided a statement for the Board's review prior to a personal appearance by myself at a time to be determined in the future.

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

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) 2003/04/02
b. SIGNATURE [redacted]

UPON COMPLETION MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (see http://arba.army.pentagon.mil)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001

DISCHARGE

20030402

19700 Pa.
St. Louis,
(See http:
DD FORM

FD 2003-00 165

STATEMENT OF [REDACTED]

I am submitting this request for an upgrade to my military discharge from the United States Air Force. Prior to this submission, I submitted, and was subsequently denied, a request to the AFBCMR to set aside a previous Article 15, UCMJ Non-Judicial Punishment and for reinstatement into the United States Air Force. This AFBCMR case is noteworthy in that it describes in detail circumstances from all sides concerning my discharge. The AFBCMR case number is [REDACTED]

Likewise, this request for an upgrade to my discharge by the United States Air Force is made solely on the merits of "Outstanding Post Service Conduct" stemming directly from my voluntary assistance to federal and military law enforcement authorities over the past several years. While I voluntarily assisted these authorities, I never anticipated the statement offered by Lt Col [REDACTED], then the Commander of Detachment 107 for the Air Force Office of Special Investigations at Kelly Air Force Base, Texas.

Being self-employed since my departure from the Air Force, I was initially moved to contact the AFOSI on my own in 1995 because of many irregularities and improprieties observed within the surplus equipment business, namely those activities of the Defense Reutilization and Marketing Service (DRMS). As one might expect, I was extraordinarily reluctant to do so since my last contact with this agency was entirely unwanted as their efforts led to my discharge from the United States Air Force. Nonetheless, whatever reservations I had about this agency based upon previous experiences paled in comparison to the criminal activities afoot within the DRMS surplus and military supply system. The result of my actions has led to criminal convictions, property seizures and recoveries, and the savings of an untold amount of tax dollars.

During the last several years, I have assisted many other federal agencies concerning matters of Department of Defense related surplus and logistics issues. Surprisingly, I have found myself offering advice not only to the AFOSI, but the Federal Bureau of Investigation (FBI), Department of the Treasury Customs Office of Enforcement, Defense Logistics Agency Security (DLA) & DLA Trade Security Investigators, and the Defense Criminal Investigative Service (DCIS). My expertise, offered on a voluntarily and uncompensated basis, was helpful to these agencies because of my existing knowledge of the military supply system and the inside edge of dealing directly with other dealers within the defense surplus industry.

While the foregoing efforts are most noteworthy, unfortunately, nothing can turn back the years of time that have passed since my discharge from the service and the denial of my appeal to the AFBCMR. Despite the fact that I have my disagreements with the Board's decision at that time, I believe it would be futile to address them at length in this statement. However, in the event the Board deems it necessary to explore the details of my discharge or the AFBCMR decision, I would be more than eager to do so if time permits.

Thank you for your time and consideration.

Respectfully Submitted,

A large, dark, irregularly shaped redaction mark covers the signature area, obscuring the name of the applicant.

02 APRIL, 2003

Applicant



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 487 COMBAT SUPPORT GROUP (USAFE)
APO NEW YORK 09694

FD 2003-00165

REPLY TO
ATTN OF: CC

18 FEB 1988

SUBJECT: Letter of Notification - Board Hearing

TO: SSgt [REDACTED] 487 CSG

1. I am recommending your discharge from the United States Air Force for commission of a serious offense according to AFR 39-10, under the provisions of paragraph 5-49(d). Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 1 July 1986 to on or about 15 April 1987 at Comiso Air Station, Italy you did attempt to steal a Hitachi video cassette recorder, of a value in excess of \$100, the property of the United States, as evidenced by an Article 15, dated 15 January 1988.

b. On or about 1 July 1986 to on or about 17 April 1987 at Comiso Air Station, Italy you did attempt to steal a Panasonic video cassette recorder, of a value in excess of \$100, the property of the United States, as evidenced by an Article 15, dated 15 January 1988.

c. On or about 24 January 1985 at Lackland Air Force Base, Texas you did wrongfully solicit SSgt [REDACTED] and SSgt [REDACTED], to make false official statements, by requesting them to take a prepunched computer card to the Individual Equipment Unit and to state that they had accidentally sent this card over to Demand Processing which statements were totally false and known by you to be totally false, as evidenced by an Article 15, dated 21 March 1985.

d. On or about 24 January 1985 at Lackland Air Force Base, Texas you did having knowledge of your duties, were derelict in the performance of your duties in that you willfully failed to refrain from using a supply computer terminal to order and unauthorized item of equipment, to wit: a flight jacket, as it was your duty to do, as evidenced by an Article 15, dated 21 March 1985.

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.

UNITED STATES AIR FORCE



SEPTEMBER 18, 1947

Right People. Right Mission. Right Now.

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 a medical examination. You must report to the Comiso Clinic, at 0830 on 19 FEB 88.

6. Military legal counsel Capt [REDACTED] Area Defense Counsel, building 139, ext 2782 has been obtained to assist you. An appointment has been scheduled for you to consult him on 0800 hours, 22 FEB 88. 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 AFM 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 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 is available for your use in the orderly room.

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

[REDACTED]

Commander, 487 Hq Sq

- 2 Atch
1. Supporting Documents for Reasons for Discharge
 - a. AF Form 3070, dtd 15 Jan 88
 - b. AF Form 3070, dtd 21 Mar 85
 2. Airman's Acknowledgement

SUBJECT: Acknowledgment of Receipt of Letter of Notification

TO: CCQ

1. I received your 18 Feb 88 letter notifying me of action to AFR 39-10, paragraph 5-49(d) at 1200 hours on 18 Feb 88.

2. I understand that approval of this recommendation for my discharge could result in my receiving an under other than honorable conditions discharge. I acknowledge that military legal counsel has been made available to assist me.


SSgt, FR462-33-7888, USAF
487th Headquarters Squadron