

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]			
TYPE	PERSONAL APPEARANCE	X RECORD REVIEW				
COUNSEL		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
[REDACTED]						X
ISSUES A94.05		INDEX NUMBER A68.00		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	
HEARING DATE 6 AUG 03		CASE NUMBER FD2003-0239		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
TO: SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742				FROM: SECRETARY OF THE AIR FORCE PERSONNEL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002		

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

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 provides a sufficient basis in clemency for a change of discharge.

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 not warrant granting clemency.

CONCLUSIONS: The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

Attachment:
Examiner's Brief

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

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

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 27 Sep 89 UP Special Court Martial Order No.8 (Conviction by Court Martial). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 8 Jul 67. Enlmt Age: 17 1/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-Unknown, E-Unknown, G-Unknown, M-Unknown. PAFSC: 55130 - Apprentice Pavements Maintenance Specialist. DAS: (APR Indicates): 18 Jul 86-05 Apr 86.

b. Prior Sv: (1) AFRes 24 Aug 84 - 17 Jul 85 (10 months 24 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 18 Jul 85 for 4 yrs. Extended 4 Sep 87 for 7 months. Svd: 4 Yrs 2 Mo 9 Das, of which AMS is 3 yrs 11 months 1 day (excludes 3 months 9 days lost time).

b. Grade Status: AB - 5 Aug 88 (Article 15, 5 Aug 88)
 A1C - 18 Nov 86
 AMN - 18 Jan 86

c. Time Lost: 4 Oct 88 thru 13 Jan 89 (3 months 9 days).

d. Art 15's: (1) 5 Aug 88, Clark AB, Philippines - Article 111 & 134. In that you, did at Angeles City, Republic of the Philippines, on or about 23 Jul 88, on Real Street, operate a vehicle, to wit: a passenger car, while drunk. Further investigation reveals that you, the driver of a vehicle at the time of an accident in which said vehicle was involved, and having knowledge of said accident, did, on or about 23 Jul 88, wrongfully leave the scene of the accident without making your identity known. Reduction to AB, 45 days restriction, and 45 days extra duty. (Appeal/Denied) (No mitigation)

(2) 1 Apr 88, Clark AB, Philippines - Article 128. In that you did, at Angeles City, Republic of the Philippines, on or about 22 Mar 88, unlawfully strike your wife, [REDACTED] by banging the back of her head, punching and kicking her on various parts of her body with your fist and feet. Suspended reduction to Amn, forfeiture of \$200.00 pay per month for two months, and

30 days correctional custody. (No appeal) (No mitigation)

e. Additional: None.

f. CM: Special Court Martial Order No.8 - 22 Nov 88

CHARGE: Article 111. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at Angeles City, Republic of the Philippines, on or about 10 Aug 88, on the MacArthur Extension, Constantine Street, Fields Avenue, and roadways adjacent thereto operate a vehicle, to wit: a Chevrolet Nova, while drunk. Plea: Guilty. Finding: Guilty.

Specification 2: Did, at Angeles City, Republic of the Philippines, on or about 10 Aug 88, on Fields Avenue and roadways adjacent thereto operate a vehicle, to wit: a Chevrolet Nova, in a reckless manner by failing to yield or stop for oncoming traffic at the intersection of Constantine Street and Fields Avenue thereby causing other vehicles to take evasive action and did, thereafter, drive at a rate of speed which eventually resulted in loss of control of the vehicle and its impact with a telephone pole and a cement wall. Plea: Guilty. Finding: Guilty. Sentence adjudged on 4 Oct 88: Four months confinement and to be discharged from the service with a bad conduct discharge.

g. Record of SV: 18 Jul 86 - 05 Apr 86 Clark AFB 9 (CRO)
 06 Apr 86 - 05 Apr 87 Clark AFB 8 (Annual)
 06 Apr 87 - 16 Dec 87 Clark AFB 7 (CRO)
 17 Dec 87 - 16 Dec 88 Clark AFB 4 (Annual)

(Discharged from Scott AFB)

h. Awards & Decs: AFOUA, APOSLTR, AFTR.

i. Stmt of Sv: TMS: (4) Yrs (9) Mos (25) Das
 TAMS: (3) Yrs (11) Mos (1) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 13 May 03.
 (Change Discharge to General)

Issue 1: The main reason I want to have my discharge changed is that I am trying to obtain my eligibility for a VA home loan. I cannot get one because of my currant (sic) discharge. If I can change my discharge to a General, then I will be able to receive my certificate.

Also, it has been well over 13 years since I was discharged. Back then I had a few personal issues that had interfeared with my duty obligations. But I have movied on and improved my life, part of which I remarried and started a family. Thus adding to my main reason of trying to obtain my certificate of eligibility. I hope you take this into consideration and approve my request for a General

FD2003-00239

Discharge.

ATCH
None.

18JUN03/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 3RD TACTICAL FIGHTER WING (PACAF)
APO SAN FRANCISCO 96274-5000

Special
Court-Martial Order No. 8

22 November 1988

AIRMAN BASIC [REDACTED] United States Air Force,
3rd Civil Engineering Squadron, was arraigned at Clark Air Base, Republic of
the Philippines, on the following offenses at a court-martial convened by the
Commander, Headquarters 3rd Combat Support Group, Clark Air Base, Republic of
the Philippines.

CHARGE: Article 111. Plea: G. Finding: G.

Specification 1: Did, at Angeles City, Republic of the Philippines, on or
about 10 August 1988, on the MacArthur Extension, Constantine Street, Fields
Avenue, and roadways adjacent thereto operate a vehicle, to wit: a Chevrolet
Nova, while drunk. Plea: G. Finding: G.

Specification 2: Did, at Angeles City, Republic of the Philippines, on or
about 10 August 1988, on Fields Avenue and roadways adjacent thereto operate a
vehicle, to wit: a Chevrolet Nova, in a reckless manner by failing to yield
or stop for oncoming traffic at the intersection of Constantine Street and
Fields Avenue thereby causing other vehicles to take evasive action and did,
thereafter, drive at a rate of speed which eventually resulted in loss of
control of the vehicle and its impact with a telephone pole and a cement wall.
Plea: G. Finding: G.

SENTENCE

Sentence adjudged on 4 October 1988: Four months confinement and to be
discharged from the service with a bad conduct discharge.

SPORO NO. 8

3 AIR 7
USAF MASTER PERSONNEL RCDs OF
INITIALS [REDACTED] DATE 19 8/88
HR USAF [REDACTED]

AG 75 27994

ACTION

In the case of AIRMAN BASIC [REDACTED], [REDACTED] United States Air Force, 3rd Civil Engineering Squadron, the sentence is approved and, except for the bad conduct discharge, will be executed. The 3rd Tactical Fighter Wing Consolidated Detention Facility, Clark Air Base, Republic of the Philippines is designated as the place of confinement.

[REDACTED]
Commander

FOR THE COMMANDER

[REDACTED]
Staff Judge Advocate

DISTRIBUTION:

- 1 - AB [REDACTED], 3CES, this stn (ACC)
- 1 - Lt [REDACTED], HQ USAF Judiciary, 7th Cir, (MJ)
- 1 - Captain [REDACTED], HQ 13AF/JA, this stn (TC)
- 1 - Captain [REDACTED], HQ USAF Judiciary, 7th Cir, this stn (DC)
- 1 - HQ 3TFW/CC, this stn
- 3 - 3CES/CC, this stn
- 1 - HQ 13AF/CC, this stn
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- 1 - 3LES/SPOJ, this stn
- 3 - 3CPTS/AFO, this stn
- 4 - 3MSSQ/DPMQ, this stn
- 5 - HQ 13AF/JA, this stn
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