

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; height: 15px; width: 100%;"></div>		GRADE AB		AFSN/SSAN <div style="background-color: black; height: 15px; width: 100%;"></div>							
TYPE BCD		PERSONAL APPEARANCE		X	RECORD REVIEW						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">COUNSEL</td> </tr> <tr> <td style="width: 50%; text-align: center;">YES</td> <td style="width: 50%; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>		COUNSEL		YES	No	X		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
COUNSEL											
YES	No										
X											
MEMBER SITTING				VOTE OF THE BOARD							
				HON	GEN						
				UOHC	OTHER						
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ISSUES A01.13 A92.37		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 DATE 16 Dec 2003		CASE NUMBER FD-2003-00342									
APPLICANT'S ISSUES AND THE BOARD'S DECISION/EXPLANATION ARE TYPE-SETTED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE											
<p>Case heard at Washington, D.C.</p> <p>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.</p> <div style="margin-top: 50px;"> <div style="display: inline-block; width: 40%; vertical-align: bottom;"> <p style="text-align: right; font-size: small;">SIGNATURE OF RECORDER</p> <div style="background-color: black; width: 100%; height: 40px; margin-top: 10px;"></div> </div> <div style="display: inline-block; width: 60%; vertical-align: bottom;"> <p style="text-align: right; font-size: small;">DATE</p> <div style="background-color: black; width: 100%; height: 40px; margin-top: 10px;"></div> </div> </div>											
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								

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2003-00342

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

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

The attached brief contains 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 provides a sufficient basis in clemency for a change of discharge.

Issue. The applicant did not receive an administrative discharge. He received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court Martial conviction. Under the provisions of Title 10, U.S.C., Section 1553, the only basis for change of a Bad Conduct Discharge, is clemency. The applicant submitted insufficient evidence to warrant clemency and none was evident in the record.

CONCLUSIONS: The Discharge Review Board concludes that the applicant's punitive discharge by Special Court Martial was 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 AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 14 Feb 90 UP SPCMO NO.5 (Conviction by Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 1 Sep 69. Enlmt Age: 17 9/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-Unknown, E-Unknown, G-Unknown, M-Unknown. PAFSC: 81150 - Security Specialist. DAS: (APR Indicates): 6 Apr 88 - 5 Apr 89.

b. Prior Sv: (1) AFRes 26 Jun 87 - 5 Apr 88 (9 months 11 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 6 Apr 88 for 4 yrs. Svd: 1 Yr 10 Mos 9 Das, all AMS.

b. Grade Status: AB - 01 Aug 89 (SPCMO No.5, 01 Aug 89)
AMN - 6 Oct 88

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial No.5 - 1 Aug 89

CHARGE I: Article 121. Plea: Guilty. Finding: Guilty.

Specification 1: Did, on or about 17 Jun 89, steal a compact disc player, of a value in excess of \$100.00, the property of [REDACTED]. Plea: Guilty, except the word 'steal,' substituting therefor the words 'wrongfully appropriate.' Of the excepted word. NG. Of the substituted words. Guilty. Finding: Guilty.

Specification 2: Did, on or about 17 Jun 89, wrongfully appropriate a bicycle, of a value of about \$179.00, the property of [REDACTED]. Plea: Guilty. Finding: Guilty.

Specification 3: Did, on or about 18 Jun 89, wrongfully appropriate a bicycle, of a value of about \$179.00, the property of [REDACTED]. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 129. Plea: Not Guilty. Article 134. Plea: Guilty. Finding: Not Guilty, but Guilty of Violation of Article 130.

Specification: Did, on or about 17 Jun 89, in the nighttime, unlawfully break and enter the dwelling house of [REDACTED] with intent to commit larceny therein. Plea: Guilty, except the words, 'in the nighttime, unlawfully break and enter the dwelling house of [REDACTED], with intent to commit larceny therein.' Substituting therefor the words, 'unlawfully enter the dwelling house of [REDACTED].' Of the excepted words, Not Guilty. Of the substituted words, Guilty. Finding: Guilty, except the words, 'in the nighttime,' and the words, 'break and.' Of the excepted words, Not Guilty. Sentence adjudged on 10 Jul 89: Bad Conduct Discharge, forfeiture of \$200.00 pay per month for 2 months, confinement for 2 months, and reduction to the grade of E-1.

g. Record of SV: 6 Apr 88 - 5 Apr 89 Minot AFB 8 (Annual)

(Discharged from Minot AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (7) Mos (20) Das
TAMS: (1) Yrs (10) Mos (9) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 17 Jul 03.
(Change Discharge to Honorable)

Issue 1: I enlisted via the delayed entry program, a 17 year old from Chicago's frigid west side. I'll I've (sic) ever known was to stand by & never deny those that stood by me, to put it short & sweet I never did any crime against anyone on Minot AFB, (N. Dakota). I subconsciously (sic) put it in God's hands. The individual that accused me was a married guy whos (sic) wife let me borrow a compact disc player, I was due to "Hump" a site & I wanted to return the property. I didn't steal anything, I'm a souljah (sic) still, please upgrade my discharge. Thank (sic) in advance.

ATCH

None.

26AUG03/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS FIFTEENTH AIR FORCE (SAC)
MARCH AIR FORCE BASE.. CALIFORNIA 92518-5000

Special Court-Martial Order
No. 5

28 January 1990

In the special court-martial case of AIRMAN [REDACTED] United States Air Force, 858th Missile Security Squadron, the sentence to a bad conduct discharge, confinement for 2 months, forfeiture of \$200.00 pay per month for 2 months, and reduction to airman basic, as promulgated in Special Court-Martial Order No. 4, Headquarters, 57th Air Division, dated 1 August 1989, has been finally affirmed. Article 71(c) having been complied with, the bad conduct discharge will be executed. The sentence was adjudged on 10 July 1989 (ACMS 28133).

[REDACTED]
Lieutenant General, USAF
Commander

DISTRIBUTION:

- 1 - AB [REDACTED] Chicago IL 60623 (ACC)
- 1 - Col [REDACTED] HQ USAF Trial Judiciary, Lowry AFB CO 80230-5000 (MJ)
- 1 - Capt [REDACTED] 57 AD, Minot AFB ND 58705-5000 (TC)
- 1 - Capt [REDACTED] 57 AD, Minot AFB ND 58705-5000 (AC)
- 1 - Capt [REDACTED] HQ USAF Judiciary, OFM [REDACTED] ADVOCATE GENERAL 58705-5000 (DC)
- 1 - 15 AF/CC, March AFB CA 92518-5000
- 1 - 858 MSS/CC, Minot AFB ND 58705-5000
- 1 - 57 AD/CC, Minot AFB ND 58705-5000
- 1 - 91 SMW/CC, Minot AFB ND 58705-5000
- 1 - 5 BMW/CC, Minot AFB ND 58705-5000
- 1 - 857 CSG/CC, Minot AFB ND 58705-5000
- 1 - 857 SPG/CC, Minot AFB ND 58705-5000

Inasmuch as no petition for a grant of review as been received within the appeal period, the sentence as approved in this case has become final. This order accurately reflects the final action taken pursuant to appellate review.

FOR THE JUDGE [REDACTED]

[REDACTED] 92518, USAF
Appellate Jurisdiction Section
Office of The Judge Advocate General

CORRECTED COPY - DESTROY ALL OTHERS

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 57TH AIR DIVISION (SAC)
Minot Air Force Base, North Dakota 58705-5000

Special Court-Martial Order
No. 4

1 August 1989

AIRMAN [REDACTED], United States Air Force, 858th Missile Security Squadron, was arraigned at Minot Air Force Base, North Dakota, on the following offenses at a court-martial convened by Special Order No. AB-10, this headquarters, dated 5 July 1989, as amended by Special Order No. AB-11, this headquarters, dated 7 July 1989.

CHARGE I: Article 121. Plea: G. Finding: G.

Specification 1: Did, at Minot Air Force Base, North Dakota, on or about 17 June 1989, steal a compact disc player, of a value in excess of \$100.00, the property of [REDACTED]. Plea: G, except the word 'steal,' substituting therefor the words 'wrongfully appropriate.' Of the excepted word, NG. Of the substituted words, G. Finding: G.

Specification 2: Did, at Minot Air Force Base, North Dakota, on or about 17 June 1989, wrongfully appropriate a bicycle, of a value of about \$179.00, the property of [REDACTED]. Plea: G. Finding: G.

Specification 3: Did, at Minot Air Force Base, North Dakota, on or about 18 June 1989, wrongfully appropriate a bicycle, of a value of about \$179.00, the property of [REDACTED]. Plea: G. Finding: G.

CHARGE II: Article 129. Plea: NG. But G of a Violation of UCMJ, Art 134. Finding: ~~G~~, NG. But G of a Violation of ~~UCMJ~~, Article 130.

Specification: Did, at Minot Air Force Base, North Dakota, on or about 17 June 1989, in the nighttime, unlawfully break and enter the dwelling house of [REDACTED] with intent to commit larceny therein. Plea: G, except the words, "in the nighttime, unlawfully break and enter the dwelling house of [REDACTED] with intent to commit larceny therein," substituting therefor the words, "unlawfully enter the dwelling house of [REDACTED] Of the excepted words, NG. Of the substituted words, G.
Finding: G, except the words, "in the nighttime," and the words, "break and." Of the excepted words, NG.

SENTENCE

Sentence adjudged on 10 July 1989: Bad Conduct Discharge, forfeiture of \$200.00 pay per month for 2 months, confinement for 2 months, and reduction to the grade of E-1.

ACTION

In the case of AIRMAN [REDACTED], [REDACTED] United States Air Force, 858th Missile Security Squadron, the sentence is approved and, except for the bad conduct discharge, will be executed. The Consolidated Confinement Facility, Minot Air Force Base, North Dakota 58703-5000, is designated as the place of confinement.

/S/ [REDACTED]
[REDACTED] Brig Gen. USAF
Commander

FOR THE COMMANDER

[REDACTED]
[REDACTED] Lt Col, USAF
Staff Judge Advocate

DISTRIBUTION

- 1 - AB [REDACTED] 858th Missile Security Squadron, Minot AFB, ND
58705-5000 (SAC)
- 1 - Col [REDACTED] HQ USAF Judiciary Fourth Circuit, Lowry AFB, CO,
80230-5000 (MJ)
- 1 - Capt [REDACTED], 57 AD/JA, Minot AFB, ND 58705-5000 (TC)
- 1 - Capt [REDACTED], 57 AD/JA, Minot AFB, ND 58705-5000 (ATC)
- 1 - Capt [REDACTED], Area Defense Counsel, Detachment QD4D, Minot AFB, ND
58705-5000 (DC)
- 1 - 57 AD/CC, Minot AFB, ND 58705-5000
- 1 - 858 MSS, Minot AFB, ND 58705-5000
- 1 - 91 SMW/CC, Minot AFB, ND 58705-5000
- 1 - 3 BMW/CC, Minot AFB, ND 58705-5000
- 1 - 857 CSG/CC, Minot AFB, ND 58705-5000
- 1 - 857 SPG/CC, Minot AFB, ND 58705-5000
- 1 - 857 SPS/SPOC, Minot AFB, ND 58705-5000
- 2 - 857 CPTS/ACF, Minot AFB, ND 58705-5000
- 4 - 857 MSSQ/DPMQA, Minot AFB, ND 58705-5000
- 1 - 57 AD/JA, Minot AFB, ND 58705-5000
- 1 - 15 AF/CC, March AFB, CA 92518-5000
- 1 - 15 AF/JA, March AFB, CA 92518-5000
- 10 - HQ USAF/JAJM, Bolling AFB, Washington, DC 20330-6440
- 1 - AFAFC/MPSSR, Denver, CO 80279
- 1 - AFMPC/MPCDOMIA, Randolph AFB, TX 78150-6051
- 1 - A.F.S.C.O., Washington, DC 20330-6440