

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ████████████████████	<b>GRADE</b> SSGT	<b>AFSN/SSAN</b> ████████████████
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<b>TYPE UO/THC</b>	<b>X</b>	<b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>
<b>YES</b>	<b>No</b>	████████████████	<b>Florida Department of Veteran's Affairs</b>
<b>X</b>			

<b>MEMBER SITTING</b>	<b>VOTE OF THE BOARD</b>				
	HON	GEN	UO/THC	OTHER	DENY
					X
					X
		X			
					X
					X

<b>ISSUES</b>	A95.01 A01.01	<b>INDEX NUMBER</b>	A64.00 A60.00 A00.52	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
				<b>1</b>	ORDER APPOINTING THE BOARD
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE
				<b>3</b>	LETTER OF NOTIFICATION
				<b>4</b>	BRIEF OF PERSONNEL FILE
					COUNSEL'S RELEASE TO THE BOARD
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
					TAPE RECORDING OF PERSONAL APPEARANCE

<b>HEARING DATE</b>	<b>CASE NUMBER</b>	
21 Apr 2004	FD-2003-00477	

**APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

Case heard at Washington, D.C. via video teleconferencing from Fort Gillem, GA. The board met in Washington, D.C.; the applicant and counsel were present in Fort Gillem, GA.

Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR

<b>INDORSEMENT</b>		<b>DATE: 4/21/2004</b>
<b>TO:</b>	<b>FROM:</b>	
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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

FD-2003-00477

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

The applicant personally appeared before the Discharge Review Board (DRB).

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

**FINDINGS:** Upgrade of discharge is denied.

The DRB finds the applicant submitted no issues contesting the equity or propriety of the discharge. After a thorough review of the record and information provided by the applicant, the DRB was unable to identify any basis that would justify a change of discharge.

**ISSUE:**

The applicant submitted no issues and requested that the review be completed based on the available service record. The DRB reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received an under other than honorable conditions service characterization.

At the hearing, the applicant argued that the service characterization was inequitable because it was too harsh. He believed this to be the case because his misconduct was isolated to the period of time that he and his former wife were having marital problems due to her infidelity. The records indicated the applicant was involved in three separate incidents of assault, for which two resulted in civilian criminal convictions and one in nonjudicial punishment. He also received a letter of reprimand for disorderly conduct. During this time, the applicant participated in counseling through social actions and family advocacy. The DRB opined that through these mechanisms, the applicant had ample opportunities to change his negative behavior. The DRB 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 applicant also noted his significant post-service activities. The DRB was pleased to see that the applicant was doing well and contributing meaningfully to society. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The DRB concluded the misconduct of the applicant appropriately characterized his term of service.

**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 SSGT) (HGH SSGT)

**1. MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 11 Feb 92 UP AFR 39-10, para 5-47a (Misconduct - Discreditable Involvement with Military or Civil Authority). Appeals for Honorable Discharge.

**2. BACKGROUND:**

a. DOB: 19 Jun 62. Enlmt Age: 18 2/12. Disch Age: 29 7/12. Educ: HS DIPL. AFQT: N/A. A-47, E-24, G-27, M-32. PAFSC: 73270 - Personnel Technician. DAS: 19 Jan 88.

b. Prior Sv: (1) AFRes 19 Aug 80 - 9 Mar 81 (6 months 21 days) (Inactive).

(2) Enlisted as AB 10 Mar 81 for 4 yrs. Extended 31 Aug 83 for 20 months. Reenlisted as Sgt 1 Jul 85 for 4 yrs. Svd: 8 yrs 1 month 4 days, all AMS. AMN - 10 Sep 81. A1C - 10 Mar 82. SrA - 1 Jul 84. Sgt-(APR Indicates): 23 Jun 85-30 Mar 86. APRs: 8,9,9,8,9,9,9,9,9.

**3. SERVICE UNDER REVIEW:**

a. Reenlisted as Sgt 14 Apr 89 for 6 yrs. Svd: 2 Yrs 9 Mo 27 Das, all AMS.

b. Grade Status: SSgt - 1 Aug 89.

c. Time Lost: None.

d. Art 15's: (1) 20 Nov 90, Lowry AFB, CO - Article 128. Preliminary investigation has disclosed that you, did, on or about 3 Nov 90, unlawfully strike [REDACTED] on the head with your hand. Suspended reduction to Sgt. Forfeiture of \$100.00 pay per month for two months (that portion of the forfeiture that exceeds \$50.00 pay per month for two months suspended), and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 19 SEP 91 - Civil arrest for assault.  
LOR, 17 JUL 91 - Disorderly conduct.

f. CM: None.

g. Record of SV: 11 Dec 88 - 10 Dec 89 Lowry AFB 9 (Annual)  
11 Dec 89 - 10 Dec 90 Lowry AFB 3 (Annual)  
11 Dec 90 - 31 Aug 91 Lowry AFB 3 (CRO)

(Discharged from Lowry AFB)

FD2003-00477

h. Awards & Decs: AFCM, AFGCM W/OLC, NCOPMER, SAEMR, NDSM, AFOSLTR, AFLSAR, AFOEA, AFOUA, AFTR.

i. Stmt of Sv: TMS: (11) Yrs (5) Mos (23) Das  
TAMS: (10) Yrs (9) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 Oct 03.  
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

**ATCH**  
None.

5NOV03/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS LOWRY TECHNICAL TRAINING CENTER (ATC)  
LOWRY AIR FORCE BASE CO 80230-5000



REPLY TO  
ATTN OF: JAC (Maj Kuhn, 6-2552)

7 FEB 1992

SUBJECT: Legal Review, of AFR 39-10 Discharge Board, SSgt [REDACTED]  
[REDACTED] 3460 TCHTG

TO: CC [REDACTED]

1. I have reviewed the administrative discharge record of board proceedings on SSgt [REDACTED] and find it legally sufficient.
2. BASIS FOR ACTION: Misconduct, discreditable involvement with military or civil authorities. AFR 39-10, Section H, Paragraph 5-47a.
3. COMMANDER'S RECOMMENDATION: Col [REDACTED], Commander of the 3460th Technical Training Group, recommended discharge from the USAF with an under other than honorable conditions discharge.
4. BOARD FINDINGS: The Board heard testimony from witnesses; reviewed various documentary evidence; heard arguments of counsel; and, received the legal advisor's instructions. The Board found that the Respondent (1) did on or about 8 Oct 1990, commit the crime of assault and battery against SSgt [REDACTED] as evidenced by his conviction on 16 October 1990 in Aurora, Colorado Municipal Court; (2) did on or about 3 November 1990, unlawfully strike TSgt [REDACTED] on the head with his hand; (3) did on or about 10 July 1991, at or near Building 401, Lowry Air Force Base, CO, conduct himself in a disorderly and unbecoming manner by struggling with SSgt [REDACTED] over a set of car keys; (4) did on or about 9 September 1991, assault TSgt [REDACTED] resulting in his arrest by civilian authorities as evidenced by the charges pending in Arapahoe District Court; and, (5) did on or about 9 September 1991, assault SSgt Alesia Y. Brown resulting in his arrest by civilian authorities as evidenced by the charges pending in Arapahoe District Court.
5. BOARD RECOMMENDATIONS: The Board recommended the Respondent be separated with an Under Other than Honorable Conditions Discharge (UO THC), and that the Respondent not be offered probation and rehabilitation with a conditional suspension of the discharge.
6. EVIDENCE AT THE BOARD:
  - a. EVIDENCE FOR THE GOVERNMENT:
    - (1) Documentary Evidence. The Government introduced the civilian court proceedings relating to the assault on his ex-wife, SSgt [REDACTED] and the incident involving the Respondent ramming his car into TSgt [REDACTED] car, and striking SSgt [REDACTED] windshield with a blunt object. Personnel records, including Respondent's UIF and Airmen Performance

were also admitted.

(2) Pertinent Evidence from Witnesses.

A. Officer [REDACTED], of the Aurora Police Department, arrived shortly after the car-ramming, windshield smashing incident. He testified to the admissions the Respondent made to being the individual who rammmed TSgt [REDACTED] car, and smashed the windshield of SSgt Brown.

B. TSgt [REDACTED] testified that Respondent struck him in the head on 3 November 1990 and rammmed his (TSgt [REDACTED] car on 9 Sep 1991.

C. MSgt [REDACTED] corroborated the incident involving the car keys in the summer of 1991 between Respondent and his ex-wife.

b. EVIDENCE FOR THE RESPONDENT:

(1) The Respondent testified. He admitted the incidents which the Board found had occurred. He testified that these incidents occurred because of marital discord, and his belief that his ex-wife and TSgt [REDACTED] were having an affair. He also stated that his problems were due to alcohol abuse. He successfully attended and completed the Air Force alcoholism program at Sheppard AFB, and has also been involved in counselling at Lowry AFB.

(2) The Respondent's commander, Capt [REDACTED] testified that Respondent deserved a general discharge from the Air Force. MSgt [REDACTED] Respondent's First Sergeant, testified that Respondent should be retained in the Air Force.

(3) Other witnesses (Sgt [REDACTED] and 1Lt [REDACTED] testified that Respondent was making progress in counselling.

(4) TSgt [REDACTED] a co-worker of Respondent attested to his good duty performance. She felt Respondent should be retained in the Air Force. MSgt [REDACTED] Chipani, a former co-worker of Respondent, also felt Respondent should be retained in the Air Force.

7. LEGAL ANALYSIS: There has been compliance with AFR 39-10 and AFR 11-31 (Administrative Practices, Boards of Officers). Respondent's counsel objected to the admission of certain documentary evidence relating to the filing of criminal charges arising out of the car-ramming episode. The legal advisor properly admitted the documents. The Respondent's later testimony admitting his conduct in this incident rendered the objection moot. Respondent's concern that one of the board members had not been paying attention (allegedly dozing off) was properly handled by the legal advisor when he excused that member from any deliberations on findings in this hearing. The findings of the board were supported by overwhelming evidence. The court records reflected Respondent's "discreditable involvement" with civilian authorities. Respondent's own testimony admitted each of the Board's findings. In addition, there was eyewitness testimony from the Respondent's ex-wife, SSgt [REDACTED], and TSgt [REDACTED]. It is clear that the

Board's recommendations are supported by the evidence. Respondent struck his wife, and received a conviction for domestic violence from the Aurora Municipal Court; he confronted his wife at her place of duty and grappled with her over a set of car keys; he struck TSgt ██████ in the head at the base gymnasium; he rammed his car into TSgt ██████ and took a blunt object to the windshield of his wife's car. This is clearly "discreditable" conduct as contemplated by the regulation. Respondent's discharge from the Air Force is warranted and under other than honorable conditions is a proper characterization.

8. OPTIONS OF THE DISCHARGE AUTHORITY:

As the Discharge Authority, you have the following options:

a. Approve the findings and recommendations of the Board, which will result in the discharge of the Respondent from the Air Force, with an under other than honorable conditions discharge, with no probation and rehabilitation.

b. Approve the findings and recommendations of the Board but grant Respondent conditional suspension of the discharge and offer him probation and rehabilitation.

c. Disapprove the recommendation and do the following:

(1) Retain SSgt ██████ or

(2) Discharge SSgt ██████ with a general or honorable discharge, with or without probation and rehabilitation.

9. RECOMMENDATION: I recommend SSgt ██████ be discharged from the Air Force for misconduct with an Under Other Than Honorable Conditions Discharge, without probation and rehabilitation.

