

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ██████████	<b>GRADE</b> ██████████	<b>AFSN/SSAN</b> ██████████
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<b>TYPE</b>	<input checked="" type="checkbox"/> <b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>								
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;"><b>COUNSEL</b></td> <td><b>NAME OF COUNSEL AND OR ORGANIZATION</b></td> </tr> <tr> <td> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"><b>YES</b></td> <td style="width:50%;"><b>No</b></td> </tr> <tr> <td></td> <td align="center"><input checked="" type="checkbox"/></td> </tr> </table> </td> <td></td> </tr> </table>		<b>COUNSEL</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"><b>YES</b></td> <td style="width:50%;"><b>No</b></td> </tr> <tr> <td></td> <td align="center"><input checked="" type="checkbox"/></td> </tr> </table>	<b>YES</b>	<b>No</b>		<input checked="" type="checkbox"/>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>
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<b>YES</b>	<b>No</b>									
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<b>MEMBER SITTING</b>	<b>VOICED TO THE BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
					<input checked="" type="checkbox"/>
					<input checked="" type="checkbox"/>
					<input checked="" type="checkbox"/>
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<b>ISSUES</b> A92.21, A94.05	<b>INDEX NUMBER</b> A67.30	<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	
<b>HEARING DATE</b> 21 Oct 2003	<b>CASE NUMBER</b> FD88-00283-A		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE	
			TAPE RECORDING OF PERSONAL APPEARANCE	

APPLICANT'S CASE AND THE BOARD'S DECISION ARE CONFIDENTIAL AND ARE NOT TO BE DISSEMINATED OUTSIDE THE AIR FORCE DISCHARGE REVIEW BOARD MEMBERS' OFFICE.

Case heard at the Air Reserve Personnel Center, Denver, CO

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

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<b>INDORSEMENT</b>		<b>DATE:</b> 02/1/2003
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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

FD88-00283-A

**GENERAL:** The applicant appeals for upgrade of discharge to honorable and change of reason for discharge.

The applicant appeared before the Board without counsel at the Air Reserve Personnel Center, Denver, Colorado, on 21 Oct 03. The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions.

Exhibit 6: Character Letter from COMCOR, Inc., dated 12 Sep 03

Exhibit 7: Character Letter from Dr. Eric Curton, dated 15 Oct 03

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

**ISSUES:**

Applicant contends his discharge was inequitable because his overall record was honorable; his discharge was based on a one-time incident; the incident was caused by severe personal problems; he had three prior honorable discharges; his command abused its authority when it decided to give him a "bad" (UOTHC) discharge; he had no nonjudicial punishments under Article 15, UCMJ; and he has been a good citizen since his discharge.

The records indicated and the applicant testified under oath that he pled guilty in civilian court to vehicular homicide and was sentenced to eight years in prison by civilian authorities. At the time of the accident, his blood alcohol level was well over the legal limit for operating a motor vehicle. He presented his case to an administrative discharge board which determined that his conduct in killing a person in his late teens or early 20s departed from that behavior expected of military members and recommended he be discharged under other than honorable conditions without probation and rehabilitation. His commanders agreed with the administrative discharge board and separated him for the commission of a serious offense with a UOTHC discharge. Although the Board recognized that the applicant successfully completed his prison term and was gainfully employed, the misconduct for which he was discharged and the characterization of that discharge as UOTHC was not an abuse of authority and correctly characterized his service in the enlistment in which the misconduct occurred. The Board considered the applicant's entire record, but determined that the egregiousness of the misconduct which resulted in the death of an innocent person was conduct under other than honorable conditions.

**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

[REDACTED]  
[REDACTED]  
(Former MSGT)

REHEARING

1. MATTER UNDER REVIEW: Appl rec'd a UOTHC Disch fr USAF 87/05/19 UP AFR 39-10, Para 5-49d (Misconduct - Other Serious Offense). Appeals for HON Disch & Change Reason for Disch.

2. OTHER FACTS:

a. See atchd cy of Examiner's Brief dtd 88/05/20.

b. AFDRB reviewed the case on 88/05/23 (Non-appearance, w/o counsel), & concluded that the Disch was consistent with the procedural & substantive requirements of the disch regulation & was within the discretion of the disch authority & that the applicant was provided full administrative due process. The Bd concluded that the applicant's Disch should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appln (DD Fm 293) dtd 95/01/16.

(Change Discharge to Honorable)

(Change Reason for Discharge To): Convenience of the Government

ISSUE 1: My discharge was inequitable as my overall record was honorable.

ISSUE 2: My discharge was inequitable as it was based on a one time incident.

ISSUE 3: My discharge was inequitable as the incident was caused by severe personal problems.

ATCHS

Request for Police Record dtd 94/01/06

Board of Parole Discharge

5 Char Refs

97/08/18/drh

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
WASHINGTON, DC

(Former MSgt)

INCOMPLETE RECORDS

1. MATTER UNDER REVIEW: Appl rec'd a UOHC Disch fr USAF 87/05/19 UP AFR 39-10, Para 5-49d (Misconduct - Other Serious Offense). Appeals for HON.

2. BACKGROUND:

a. DOB: 53/01/13. Enlmt Age: 31 3/12. Disch Age: 34 4/12. Educ: RIP reflects 30-59 S/H College. AFQT: 603. AQE: M-81, A-58, G-71, E-81. PAFSC: 27670 - Aerospace Control & Warning Sys Techn.

b. Prior Sv: 13 Yrs 5 Mos 25 Das, of which AMS is 11 Yrs 11 Mos 25 Das.

(1) Enld as AB 70/10/09 for 4 Yrs. Svd: 4 Yrs, all AMS. Sgt, 72/08/01. APRs: 8, 8, 8, 9, 9, 9. Awards & Decs: NDSM, AFGCM. HON Disch, transfer to USAFR, 74/10/08.

(2) AFRes, 74/10/09 - 76/04/08 (1 Yr 6 Mos) (Inactive).

(3) Reenld as Sgt 76/04/09 for 4 Yrs. Svd: 4 Yrs, all AMS. SSgt, 79/05/01. APRs: 9, 9, 9, 9, 9, 9. HON Disch, AFR 39-10, 80/04/08.

(4) Reenld as SSgt 80/04/09 for 4 Yrs. Svd: 3 Yrs 11 Mos 25 Das, all AMS. TSgt, 82/07/01. APRs: 9, 9, 9. Dischd for immed reenlmt, 84/04/03.

3. SERVICE UNDER REVIEW:

a. Reenld as TSgt 84/04/04 for 4 Yrs. Svd: 3 Yrs 1 Mo 16 Das, all AMS.

b. Grade Status: MSgt - 85/07/01

c. Time Lost, Art 15's, CM: None of rcd.

d. Record of Sv:	84/01/05	84/05/03	Shemya AFB	9 (CoR)
	84/05/04	85/05/03	Lowry AFB	9 (Annual)
	85/05/04	86/05/03	Lowry AFB	9 (Annual)

(Dischd fr Lowry AFB)

e. Awards & Decs: (all pds of sv) DD Fm 214 reflects - MSM, AFGM (w/1 OLC), AFOUA (w/1 OLC), CRM, AFGM (w/3 OLC), NDSM, ADF Exp Mdl, HSM, AF O/S Rbn (LT), AF O/S Rbn (ST) (w/2 OLC), AFTR, AFLSR (w/1 OLC), NCO PME Rbn (w/1 OLC).

f. Stmt of Sv: TMS: 16 Yrs 7 Mos 11 Das  
TAMS: 15 Yrs 1 Mo 11 Das

## 4. FACTS LEADING UP TO DISCHARGE:

(EXAMINER'S NOTE: Only Vol I of 3 vols of the Rcd of Bd Proceedings is in the rcd - pages 1 thru 154 of the transcript. Avail disch corres (Govt Exs) were obtained fr documents atchd to the appl's appln (DD Fm 149)).

a. A B/O convened UP AFR 39-10 at Lowry AFB on 87/01/01-0. The foll Govt Exhibits were admitted in evidence before the Bd:

- 1 - Special Order A-9, undtd.
- 1a - Msg fr HQ USAF/JAJM approving request for M to serve as recorder on AFR 39-10 Admin Disch Bd.
- 2 - JA Notif of Bd Hearing, 87/02/27, & Ann's receipt.
- 3 - Gp Comdr's Amendment to Ltr of Notif, dtd 87/03/19, & Ann's ack'd receipt, 87/03/23 (cited in Comdr's Rpt).
- 3a - Gp Comdr's Ltr of Notif to Ann, 87/02/03, & Ann's receipt (cited in Comdr's Rpt).
- 4 - Gp Comdr's Recmndn for Disch, 87/02/23. Recmndn for Disch UP AFR 39-10, Para 5-49d, for misconduct - commission of a serious offense. Specific reason contained in Atch 1, Ltr of Notif, dtd 87/02/03, & Amendment to Ltr of Notif, dtd 87/03/19 (Govt Ex 3a), is: That you (Ann) did in the city of A---, --- P--- St & E. C--- Ave, operate a motor veh, which 86/07/01, on S. --- in a careless manner & did thereby cause said veh to strike & kill 11-year person. (Cited APRs - all pds of sv - Govt Ex 9). Other derogatory data: 87/01/27 - Ltr fr District Atty R--- G--- (Govt Ex) that atchd & not a Govt Ex). I do not recm P&R. Ann's actions have proven himm unworthy of further mil sv.
- 5 - Police rpt of all policemen involved in the case & witness stmnts (not available).
- 6 - Ann's stmt in support of his plea of guilty (not available).
- 7 - Probation Dept Rpt fr probation ofcr in Ann's case (not available).
- 8 - Excerpt fr Manual for Courts-Martials on the article for drunken or reckless driving (not available).
- 9 - APRs (all pds of sv) (cited in Comdr's Rpt).
- 10 thru 12 - unknown

(EXAMINER'S NOTE: The findings & recmndns of the Bd were obtained fr the SJA Review (Ctr), dtd 87/05/06).

## FINDINGS:

That Ann is 34 yrs of age & has 15 yrs active mil sv.

That Ann has engaged in an act or acts of misconduct: commission of a serious offense as specified in AFR 39-10, para 5-49d, as evid by the foll:

That he did in the city of A—, —, o/a 86/07/01, on S. P— St & E. C— Ave, operate a motor veh while drunk, in a careless manner & did thereby, cause said veh to strike & kill another person.

That a punitive disch would be auth for the same or a closely related offense under the MCM.

That Ann is therefore, considered subj to disch for misconduct for commission of a serious offense under para 5-49d, AFR 39-10.

That Ann is eligible for P&R under the criteria of Ch 7, AFR 39-10, because he is not ineligible UP AFR 39-10, para 7-2f, & because para 7-2g allows the sep auth to offer P&R in such a case.

## RECMDNS:

That Ann be dischd because of misconduct w/a UOTHC Disch, & that he not be offered rehab opportunities w/a conditional suspn of his disch, because of the severe nature of the offense which caused loss of life & that fact that his retention of active dy would be contrary to good order & discipline.

b. Rpt of Med Exam, 87/02/05. Is qual WW sv.

c. SJA Review (Ctr), 87/05/06. ...The findings & recmdns are supported by a preponderance of the evid. The Bd proceedings were in compliance w/the required procedures of AFR 11-31. . . .Recm apv the Bd's findings & recmdn & direct a UOTHC Disch w/o P&R.

d. 87/05/07 Wg Comdr reviewed the findings of the admin disch bd & concluded the findings to be appropriate to warrant a UOTHC Disch.

e. 87/05/11 Ann's ADC requested Ann be granted P&R.

Ann's stmt, dtd 87/05/11 (see cy atchd to Examiner's Brief).

Atch: Stmt in Ann's behalf.

f. 87/05/13, Addendum to SJA Review dtd 87/05/06. ...It is our view that the recently submitted material by Ann does not change our prior analysis & recmdn in this case since it does not contain any new matters but only suggests a common sense condition on P&R, if such were to be granted. We continue to recm, therefore, that you apv the Bd's findings & recmdn & direct Ann be dischd w/a UOTHC Disch w/o P&R.

g. 87/05/19 Disch Auth avpd the findings of the admin disch bd & ordered a UOTHC Disch UP AFR 39-10, Para 5-49d, w/o P&R.

5. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) undtd

(Change discharge to Honorable).

Appln (DD Fm 149) dtd 87/10/15

(I request the following correction of error or injustice:)  
Discharge be upgraded to Honorable.

(I believe the record to be in error or unjust in the following particulars:)  
Seperated under AFR 39-10, specified as other offenses, prior to being sentenced on  
one count of vehicular homicide. The only judicial count civilian or military  
brought against me in a 15 yr. career. A career that was considered highly  
exemplary until this incident occured as reflected by testimony brought to a  
seperation Board and by the Board members themselves.

(In support of this application I submit as evidence the following:)  
Transcript of Seperation Board.

Atch - Document identified as Vol 3 of 3 Vols, (Appl's) 39-10 Board, Contents:  
Exhibits

Ltr fr Congressman F—, 87/10/26, w/ltr fr appl dtd 87/10/15

88/05/20/rmk