

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AB	AFSN/SSAN ████████████████
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TYPE BCD	PERSONAL APPEARANCE	X	RECORD REVIEW								
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">COUNSEL</td> <td>NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table> </td> <td></td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>	YES	No		X		ADDRESS AND OR ORGANIZATION OF COUNSEL	
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION										
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>	YES	No		X							
YES	No										
	X										

MEMBER SITTING	VOICES OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A01.13 A92.21 A93.11 A93.07	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 10 Mar 2004	CASE NUMBER FD-2003-00475	
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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.

[Handwritten Signature]

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

GENERAL: The applicant appeals for upgrade of discharge to general (under honorable conditions).

The applicant was offered a personal appearance before the Discharge Review Board (DRB) 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 applicant provides a sufficient basis in clemency for a change of discharge.

Issues: The applicant did not receive an administrative discharge, thus his contentions of inequity are 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 a 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

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 6 Mar 92 UP SPCMO #1 (Conviction by Court Martial). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 6 Jun 70. Enlmt Age: 18 6/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-86, E-61, G-52, M-51. PAFSC: 49130 - Apprentice Comm-Comp Systems Operator. DAS: 7 Dec 90.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Dec 88 for 4 yrs. Svd: 3 Yrs 2 Mo 23 Das, all AMS.

b. Grade Status: AB - 30 Apr 90 (Article 15, 30 Apr 90)
AMN - 12 Jun 89

c. Time Lost: None.

d. Art 15's: (1) 15 Aug 90, San Vito AS, Italy - Article 86. You did, on 30 Jul 90, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$120.00 pay, and 14 days extra duty. (Appeal granted as follows: Forfeiture of \$50.00 pay and 14 days extra duty) (No mitigation)

(2) 3 Jul 90, San Vito AS, Italy - Article 86. You did, on or about 26 Jun 90, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$120.00 and 14 days extra duty. (Appeal/Denied) (No mitigation)

(3) 30 Apr 90, San Vito AS, Italy - Article 86. You did, on or about 20 Apr 90, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: Special Court Martial Order No.2 - 28 Nov 90

CHARGE I: Article 86. Plea: Guilty. Finding: Guilty.

Specification: Failure to go.

CHARGE II: Article 123a. Plea: Not Guilty. Finding: Not Guilty of Article 123a, but Guilty of Article 134.

Specification 1: Making and uttering of two checks with intent to defraud to the 7275th ABG Accounting and Finance office from 11 Jan 90 to 18 Jan 90. Plea: Guilty (by exceptions and substitutions). Finding: Guilty of Article 134.

Specification 2: Making and uttering of 13 checks with intent to defraud to the Army and Air Force Exchange Service from 6 Dec 89 to 30 Jan 90. Plea: Guilty (by exceptions and substitutions). Finding: Guilty of Article 134.

Specification 3: Not Guilty.

Specification 4: Making and uttering of four checks with intent to defraud to the Army and Air Force Exchange Service from 15 Jan 90 to 28 Jan 90. Plea: Guilty (by exceptions and substitutions). Finding: Guilty of Article 134.

Specification 5: Making and uttering nine checks with intent to defraud to the Army and Air Force Exchange Service from 12 Jan 90 to 30 Jan 90. Plea: Guilty (by exceptions and substitutes)
Finding: Guilty of Article 134. Sentence adjudged on 18 Oct 90: Bad Conduct Discharge and 35 days confinement.

g. Record of SV: None.

(Discharged from Los Angeles AFB)

h. Awards & Decs: AFOUA, NDSM, AFOSLTR, AFTR.

i. Stmt of Sv: TMS: (3) Yrs (2) Mos (23) Das
TAMS: (3) Yrs (2) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 28 Sep 03.
(Change Discharge to General)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Declaration of Discharge.
3. College Transcript.
4. DD Form 214.
5. Copy of Discharge Documents.
6. Character References (5).
7. Letter of Congratulations.
8. Letter of Appreciation.

5NOV03/ia

7 OCT 2003

B/AM FD 2003-00475

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved OMB No. 0704-0004 Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY AIR FORCE COAST GUARD
b. NAME (Last, First, Middle Initial)
c. GRADE/RANK AT DISCHARGE AB
d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) MARCH 06, 1992
4. DISCHARGE CHARACTERIZATION RECEIVED (X one) HONORABLE GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS
5. BOARD ACTION REQUESTED (X one) CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION LOS ANGELES AFB, CA
8. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.) A CHANGE FROM BAD CONDUCT TO GENERAL (UNDER HONORABLE CONDITIONS) WOULD ALSO OBTAIN A JOB. SINCE MY DISCHARGE IVE BEEN ON 2 diff OWNERS DIFFERENT EMPLOYERS AS SOON AS THEY FIND OUT ABOUT MY DISCHARGE THEY RELEASE ME. MY INABILITY TO MAINTAIN WORK, COST ME MY MARRIAGE, MY FAMILY. I FINALLY GRADUATED FROM -

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

9. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.) COPIES OF TESTIMONY FROM THE BRANCH MANAGER, MY SUPERVISOR & COWORKERS THAT I WAS A GOOD KID WHO MADE ERRORS IN JUDGEMENT, BUT TRIED TO RESOLVE THOSE ISSUES.

9. TYPE OF REVIEW REQUESTED (X one)
X CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.
I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)
b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.
[] SPOUSE [] WIDOW [] WIDOWER [] NEXT OF KIN [] LEGAL REPRESENTATIVE [] OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE
b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287. That an individual shall be fined under this title or imprisoned not more than 5 years, or both, if he or she knowingly makes a false statement or claim.)
a. SIGNATURE (Print name above)
b. DATE SIGNED - REQUIRED (YYYYMMDD) 2003 09 28
CASE NUMBER (Do not write in this space.)

SCANNED

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

THE UNIVERSITY OF PHOENIX WITH A BS IN BUSINESS MANAGEMENT BUT I CAN'T FIND A JOB BECAUSE OF MY MILITARY RECORD, I'M NOT REQUEST ANY V.A. BENEFITS AT ALL I BELIEVE IN HARD WORK AND WANT AN OPPORTUNITY TO PROVE THAT I'VE LEARNED FROM MY MISTAKES.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

COLLEGE TRANSCRIPTS, DIVORCE DECREE

16. REMARKS (If applicable)

PLEASE REVIEW MY REQUEST FOR MY DISCHARGE TO BE UPGRADED. TO GENERAL UNDER HONORABLE CONDITION, I KNOW YOU RECEIVE A LOT OF REQUEST BUT THIS IS ONE THAT I PRAY YOU'LL CONSIDER. AT THE TIME I WAS IN GOING ON 20 WITH A WIFE AND THREE CHILDREN TRYING TO PROVIDE SINCE THAT IS WHAT A MAN DOES FOR HIS FAMILY. I MADE A LOT OF MISTAKES BUT THE BIGGEST ONE WAS PLEADING GUILTY TO CHARGES I KNEW I WASN'T GUILTY OF. AT THE TIME MY FAMILY WAS IN CALIFORNIA WHERE I WAS ITALY MY WIFE HAD 3 CHILDREN UNDER THE AGE OF 3 YEARS OLD, AND WAS VERY STRESSED, I WAS STRESSED BECAUSE I WAS IN ITALY AND UNABLE TO COMFORT HER. SHE THOUGHT ABOUT KILLING HERSELF. SO I FELT OBLIGATED TO PLEA GUILTY AND BE SENT HOME A FAILURE BUT AT LEAST BE WITH MY FAMILY. INSTEAD I WAS SENTENCED TO 35 DAYS CONFINEMENT WHICH I FELT WAS A NIGHT IN MY WIFE'S CABIN. I DID MY 35 DAYS HONORABLE BUT WHEN I RETURNED HOME MY MARRIAGE WASN'T THE SAME. MY WIFE FELT I HAD LET HER AND THE KIDS DOWN, THAT WAS SOMETHING SHE NEVER GOT OVER AND MY MARRIAGE ALSO FAILED. I'M JUST LOOKING FOR A CHANCE TO TURN THINGS AROUND. NOT A HANDOUT. PLEASE FIND IT IN YOUR HEART TO UPGRADE MY DISCHARGE, I WILL USE THIS OPPORTUNITY TO TURN MY LIFE AROUND AND WILL KEEP YOU INFORMED REGARDING MY PROGRESS. THE LOS ANGELES POLICE DEPARTMENT IS VERY INTERESTED IN ME AND ONCE I GET THIS UPGRADE I CAN START THE ACADEMY IMMEDIATELY. THANK YOU AGAIN

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593