

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ██████████	<b>GRADE</b> A1C	<b>AFSN/SSAN</b> ██████████
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<b>TYPE GEN</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>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
	X				
	X				
					X
	X				

<b>ISSUES</b> A94.06	<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
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
		TAPE RECORDING OF PERSONAL APPEARANCE

<b>HEARING DATE</b> 08 Apr 2004	<b>CASE NUMBER</b> FD-2003-00491	
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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.

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> 4/16/2004
<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**

CASE NUMBER

FD-2003-00491

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

The applicant appeared and testified before the Discharge Review Board (DRB) without counsel. Mr. [REDACTED] his father, also testified.

The following additional exhibits were submitted at the hearing:

Exhibit 6: Medical documents pertaining to left-heel, bone spur surgery performed in August 2001.

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

**FINDINGS:** The Board grants the requested relief.

The Board finds that neither the evidence of record or that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

**ISSUE:** The applicant received a general discharge for misconduct (commission of a serious offense) and cited five issues:

Issue 1. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The applicant has earned a Bachelors Degree in Health Systems Management since his discharge and wishes to pursue a higher level degree. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366), that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 2. The applicant cited as unfair the decision that was made concerning his discharge. The DRB concurred and noted that the applicant had served almost six years total service before the discharge was initiated, that he had no previous derogatory information in his military records, and that he was not given a punitive discharge in his court-martial. Additionally, there was concern when the applicant testified that he had never been offered non-judicial punishment prior to being court-martialed, that he offered, but was denied, the opportunity to pay back the unauthorized phone charges he had incurred, that the control of cell phone use was loose within his unit and personal use was well known and wide spread, that the OSI investigation revealed that others in his unit had used their government cell phones for personal use, and that no one else was given a court-martial or non-judicial punishment.

Issue 3: The applicant contends that discrimination was practiced concerning his discharge. He stated that he was basically a one-man shop after his supervisor was promoted to another position within his work area and that this created some animosities among some of his co-workers due his relatively junior (SRA) grade. Upon being demoted to A1C as a part of his court-martial sentence, he stated that his unit did not want him back in his previous job. Although there is no documentary evidence to support applicant's claim, the Board noted that he was separated shortly after completing the portion of his court-martial sentence specifying seven days confinement and two months of hard labor.

Issue 4: The applicant contends that he was punished twice regarding his court-martial offenses. Although The Discharge Review Board agrees that the discharge was consistent with the procedural and substantive

requirements of the discharge regulation and was within the discretion of the discharge authority, they felt that the discharge was inequitable because it was too harsh.

Issue 5: The application contends that the separation date on his DD Form 214 is incorrect and based on his discharge record and out processing file. He was advised that the DRB was not the proper forum to address this and that the Air Force Personnel Center would be so advised.

**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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable - Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:  
Examiner's Brief

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

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

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 3 Oct 94 UP AFR 39-10, para 5-49 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Jan 69. Enlmt Age: 19 4/12. Disch Age: 25 8/12. Educ: HS DIPL. AFQT: N/A. A-60, E-51, G-59, M-41. PAFSC: 4A151 - Medical Material Journeyman. DAS: 27 Jun 92.

b. Prior Sv: (1) AFRes 16 Jun 88 - 27 Nov 88 (5 months 11 days) (Inactive).

(2) Enlisted as AB 28 Nov 88 for 4 yrs. Extended 26 Aug 91 for 6 months. Svd: 3 yrs 0 months 13 days, all AMS. AMN - 28 May 89. A1C - 28 Mar 90. SrA - 28 Nov 91. EPRs: 4,3.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 19 Dec 91 for 4 yrs. Svd: 2 Yrs 9 Mo 15 Das, all AMS.

b. Grade Status: A1C - 8 Jul 94 (SPCMO#7, 8 Jul 94)

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial No.7 - 8 Jul 94

CHARGE I: Article 121. Plea: Not Guilty. Finding: Not Guilty.

CHARGE II: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, within the State of Florida, from on or about 12 Aug 93 to on or about 5 Feb 94, with intent to defraud, falsely pretend to Cellular One Telephone Company that he, the said Senior Airman [REDACTED], was entitled to use telephone numbers 582-6545, 582-6546, and 582-5004 for personal use, then knowing that the pretenses were false, and by means thereof did wrongfully obtain from Cellular One Telephone Company services, of a value of about \$1,169.00, to wit: cellular telephone services. Sentence adjudged on 19 May 94: Confinement for 7 days, hard labor without confinement for 2 months, forfeiture of

\$200.00 pay per month for 6 months, and reduction to A1C.

g. Record of SV: 26 Apr 91 - 03 Feb 92 Osan AB 4 (CRO)  
 04 Feb 92 - 31 Oct 92 Hurlburt Field 3 (CRO)  
 01 Nov 92 - 30 Apr 93 Hurlburt Field 4 (CRO)  
 01 May 93 - 14 Mar 94 Hurlburt Field 2 (CRO) REF

(Discharged from Hurlburt Field)

h. Awards & Decs: AFTR, NDSM, AFOUA W/1 DEV, AFLSAR, AFAM, AFGCM, NCOPMER.

i. Stmt of Sv: TMS: (6) Yrs (3) Mos (17) Das  
 TAMS: (5) Yrs (10) Mos (6) Das

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

Issue 1: I want to use my GI Bill to continue my education, but under my discharge I my (sic) have an honorable discharge.

ATCH

None.

17DEC03/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 16th SPECIAL OPERATIONS WING (AFSOC)

FD 2003-00491

16 Aug 94

MEMORANDUM FOR A1C [REDACTED]

FROM: 720 STG/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for commission of a serious offense. The authority for this action is AFR 39-10, Section H, paragraph 5-49. If my recommendation is approved, your service will be characterized as General. I am recommending that your service be characterized as General.

2. My reasons for this action are based on the following:

You did, within the State of Florida, from on or about 12 August 1993 to on or about 5 February 1994, with intent to defraud, falsely pretend to Cellular One Telephone Company that you, the said Senior Airman [REDACTED], were entitled to use telephone numbers 582-6545, 582-6546, and 582-5004 for personal use, then knowing that the pretenses were false, and by means thereof did wrongfully obtain from Cellular One Telephone Company services, of a value of about \$1,169.11, to wit: cellular telephone services.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel, Capt [REDACTED], Eglin AFB, FL, Bldg 8, Rm 107, Ext 4185 on 24 Aug 94 at 1000 hours. You may consult civilian counsel at your own expense.


4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within 3 duty days of the date of your ADC appointment (Response due 29 Aug 94/1600 hrs) unless you

request and receive an extension for good cause shown. I will send them to the separation authority.

5. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

6. You are scheduled for a medical examination and you should report to the Hurlburt Clinic, at 0715 hours on 18 Aug 94 for the examination.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, Attachment 2. A copy of AFR 39-10 is available for your use at the unit orderly room.

  
Col, USAF  
Commander

Attachment:  
Court-Martial Order dtd 8 Jul 94