

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>					GRADE SRA		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>		
TYPE GEN		PERSONAL APPEARANCE			X		RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES No									
X									
MEMBER SITTING					VOTE OF THE BOARD				
<div style="border: 1px dashed black; width: 100%; height: 100%;"></div>					HON	GEN	UOTHC	OTHER	DENY
					X				
					X				
					X				
					X				
					X				
ISSUES A94.06		INDEX NUMBER A67.50			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				
HEARING DATE 09 Sep 2004		CASE NUMBER FD-2004-00258			TAPE RECORDING OF PERSONAL APPEARANCE				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED 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>									
INDORSEMENT					DATE: 9/14/2004				
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

FD-2004-00258

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

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 approved. Change to the Reason and Authority for discharge is denied.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, three Letters of Reprimand, and two Letters from the Commander for various acts of misconduct. The Board noted that the applicant was processed for discharge subsequent to successfully completing correctional custody despite no additional evidence of misconduct. The Board opined this action appeared to be contrary to the rehabilitative purpose of correctional custody. Further, the Board took into consideration the apparent spiteful behavior of a SNCO towards the applicant. While the Board does not condone the applicant's misconduct, the Board found the characterization of the discharge received by the applicant to be inequitable when taking into consideration the length and quality of the applicant's remaining service as documented in the applicant's service record.

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 should be changed 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]
(Former SRA) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Travis AFB, CA on 11 Feb 91 UP AFR 39-10, para 5-47b (Pattern of Misconduct). Appeals for Honorable Discharge and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 29 Apr 64. Enlmt Age: 18 2/12. Disch Age: 26 9/12. Educ: HS DIPL. AFQT: N/A. A-64, E-24, G-41, M-22. PAFSC: 81150 - Security Specialist. DAS: 7 Mar 86.

b. Prior Sv: (1) AFRes 1 Jul 82 - 21 Mar 83 (8 months 21 days) (Inactive).

(2) Enlisted as AB 22 Mar 83 for 4 yrs. Extended 7 Jan 85 for 5 months. Extended 10 Jan 86 for 13 months. Extended 29 Apr 86 for 7 months. Svd: 4 yrs 3 months 15 days, all AMS. AMN - 22 Sep 83. A1C - 22 Mar 84. SRA - 22 Mar 86. Sgt - 1 Mar 87. APRs: 9,8,8,9.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as Sgt 8 Jul 87 for 4 yrs. Svd: 3 Yrs 7 Mo 3 Das, all AMS.

b. Grade Status: SRA - 20 Nov 90 (Vacation of NCO Status)
Sgt - 2 Nov 90 (Article 15, 2 Nov 90)
SSgt - 1 Oct 89

c. Time Lost: None.

d. Art 15's: (1) 2 Nov 90, Yokota AB, Japan - Article 128. You, did, on or about 7 Oct 90, assault [REDACTED] by throwing him to the ground and hitting him in the face with your fist. Reduction to Sgt. Suspended forfeiture of \$200.00 pay per month for 2 months. Thirty days correctional custody. (Appeal/Withdrawn) (No mitigation)

(2) 12 Aug 87, Yokota AB, Japan - Article 134. You, did, on or about 29 Jul 87, wrongfully and willfully discharge a firearm, to wit: a GAU 5A #26, in the Armory under circumstances such as to endanger life. You, did, on or about 29 Jul 87, wrongfully endeavor to impede an investigation by having Airman [REDACTED] take a piece of carbon paper and rub it into the clearing barrel to make it appear that you fired a GAU 5A #26 into the clearing barrel in the Armory. (No appeal) (No mitigation)

g. Record of SV: 23 Sep 87 - 22 Sep 88 Yokota AB 9 (Annual) *
23 Sep 88 - 26 Jun 89 Yokota AB 8 (CRO)
27 Jun 89 - 29 Jan 90 Yokota AB 3 (CRO)

i. Stmt of Sv: TMS: (8) Yrs (7) Mos (11) Das
TAMS: (7) Yrs (11) Mos (21) Das

(Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. DD 256 AF, Honorable Discharge Certificate.
4. Response to Article 15.
5. 475 ABW Form 69.
6. Correctional Custody Progress Report.
7. 475 SPS Letter, 29 Jan 90.
8. Two Certificates of Achievements.
9. Achievement Certificate.
10. Certificate of Achievement.
11. Eight Letters of Appreciation.
12. Enlisted Performance Report.
13. Award Certificate.
14. Seven Airman Performance Reports.

12AUG04/ia

[REDACTED]
[REDACTED] March 22 1983 ~ February 11 1991)

I would like the board to consider the following issues: 1) my job performance records for my complete service time, 2) unlawful discharge of (blank) ammo 3) altercation dated (1990) and 4) consider the stress the General discharge has had on my employment opportunities and family for the past 17 years.

After entering the Air Force on March 22nd 1983, I have consistently served on active duty in an honorable manner with only minor incidents in my second enlistment as a career airman. Not only in my opinion, but also as reflected in the comments of past commanders, supervisors, Good Conduct medals, and performance evaluators, they too have observed my honorable job performance and duty. (See attachments)

Since separating on February 11, 1991, I have avoided responding to accusations of my character and service or refuting the General Discharge because of personal disappointment, embarrassment and feelings of not getting what was acceptable from my squadron and the Air Force. Now, having lived in Japan for more than 17 years, I have tried returning to the American work force but must continue to explain the general discharge to prospective employers. I continue to feel, however, that my service was one of Honor from the beginning; I am optimistic and hopeful that it will be upgraded as such.

◆ First of all, the article 15 in 1987, fell short in mentioning that the discharged weapon was a blank 5.56 round of training ammo. Also after pleading to change the stipulation "to endanger life" from the details because of its inaccuracy, my commander blatantly refused knowing that without the proper explanation it would be extremely difficult to explain or convince someone later, and it has been. The responding person on duty at that time was [REDACTED] who after that incident promised to "get me next time I stepped out of place." The second article 15 (1990) was for an altercation between a Japanese national and me. Again there was no mention of what other witnesses saw or my accounts of what happened. In actuality, the Japanese man grabbed me from behind and threw me to the ground. I rolled him over and punched him in the face twice. The punches I threw were the only mention of exchange in the report; nonetheless, it takes two to tangle. I was coming up on the last two months or so of my enlistment and asked to be separated earlier rather than go to correctional custody because it would cause undue hardship on my wife, and I would have to contend with [REDACTED] there; this was refused without consideration. [REDACTED] did do everything possible to make it hard on me as I intended, even [REDACTED]

instructed the monitors "to take extra care of [REDACTED]" Mean while, my wife, who I recently married, was unfamiliar with military life and was home alone with my oldest daughter and pregnant with my second. This was too much for her and I to take, but I tried anyway. Eventually, I was released from the facility and prepared for discharge.

This was the first time that my performance reports were ever lower in my entire military career. (See APR's) This General Discharge has taken the competitiveness out of a well-rounded, educated, hard-working person. A full evaluation of my work performance, letters of appreciation for outstanding work, and overall Air Force service indicates my duties were mostly Honorable. I sincerely appreciate your careful review and trust this board will see the pain my family and I have suffered and continue to suffer from this present General Discharge and up grade it to Honorable.

[REDACTED]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 475TH AIR BASE WING (PACAF)
APO SAN FRANCISCO 96328

FD 2004-00258

REPLY TO
ATTN OF: 475 SPS/CCQ

8 Jan 91

SUBJECT: Notification Letter-Board Hearing

TO: [REDACTED]
475 SPS

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct according to AFR 39-10, under the provisions of paragraph 5-47b. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 26 Nov 90 you were derelict in the performance of duty, as evidenced by a LOR, dated 29 Nov 90, with attachment.

b. On or about 10 Nov 90 you were derelict in the performance of duty, as evidenced by a LOR dated 20 Nov 90, with attachments.

c. On or about 7 Oct 90 you assaulted [REDACTED], as evidenced by AF Form 3070, served 12 Oct 90.

d. On or about 22 Aug 89 you used provoking language and behaved inappropriately during softball games as evidenced by a LOR, dated 23 Feb 90, and 475 ABW/SSR letter, undated, with attachments.

e. On divers occasions between on or about 12 May 89 and on or about 9 Sep 89 you were disorderly at the NCO Club as evidenced by a LOR, dated 23 Feb 90 and 475 ABW/SSE letter, dated 24 Nov 89, with attachments.

f. On or about 8 Oct 88 you wrote a check for \$70.00 for which you failed to maintain sufficient funds to redeem as evidenced by a Dishonored Check letter, dated 13 Oct 90.

g. On or about 29 Jul 87 you wrongfully and willfully discharge a firearm under circumstances such as to endanger life, as evidenced by an AF Form 3070, served 6 Aug 87, with attachment.

h. On or about 29 Jul 87 you wrongfully endeavored to impede an investigation, as evidenced by an AF Form 3070, served 6 Aug 87, with attachment.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to:

- a. Consult legal counsel
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

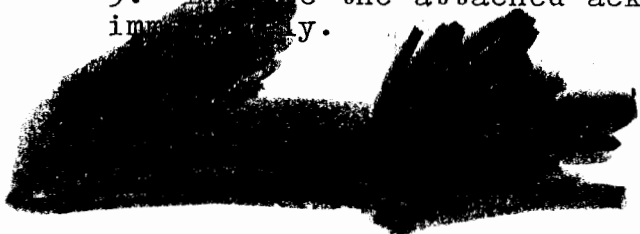
5. You have been scheduled for a medical examination. You must report to Physical Exams, at 0815 on 9 Jan 91.

6. Military legal counsel, [REDACTED], at 5-8119 has been obtained to assist you. An appointment has been scheduled for you on 8 Jan 91, at 0900, in the ADC Office. Instead of the appointed counsel, you may have another, if the lawyer you request in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the 475 MSSQ master library.

9. Execute the attached acknowledgment and return it to me immediately.



3 Atch

1 Supporting Documents

- a LOR, dated 29 Nov 90, w/atch
- b LOR, dated 20 Nov 90, w/atch
- c AF Fm 3070, served 12 Oct 90
- d LOR, dated 23 Feb 90, w/atch
- e Dishonored Check ltr, dated 13 Oct 90
- f AF Fm 3070, served 6 Aug 87, w/atch

2 Derogatory Information

- a Denial of AFGCM, dated 30 Nov 90
- b Release from CC ltr, dated 27 Nov 90
- c AF Fm 590, dated 20 Nov 90
- d AF Fm 418, dated 20 Nov 90
- e 475 ABW Fm 51, date 19 Nov 90
- f AF Fm 2731, dated 16 Oct 90
- g AF Fm 590, dated 12 Oct 90
- h Memo for Record, undated
- i Suspension of Driving Privileges, dated 5 Sep 90
- j AF Fm 1315, dated 9 Apr 89
- k AF Fm 840, dated 16 Oct 87
- l 475 ABWG SP Fm 0-326, dated 27 Aug 87
- m AF Fm 418, dated 12 Aug 87
- n AF Fm 590, dated 29 Jul 87

3 Airman's Acknowledgment