

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

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

HON	GEN	UOHC	OTHER	DENY
				X
				X
				X
				X
				X

ISSUES **A94.05**

INDEX NUMBER **A67.90**

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
28 Jul 2005

CASE NUMBER
FD-2005-00085

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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

Names and votes will be made available to the applicant at the applicant's request.

INDORSEMENT

DATE: 8/1/2005

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-2005-00085

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

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

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s and a Vacation action under the UCMJ for assault, failure to go and for unlawfully touching a female on the buttocks. In addition, he received a Letter of Reprimand for failure to go. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board 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.

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]

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr McGuire AFB, NJ on 8 Feb 91 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 21 Dec 68. Enlmt Age: 18 7/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-40, E-70, G-80, M-40. PAFSC: 81152 - Law Enforcement Specialist. DAS: 15 Nov 88.

b. Prior Sv: (1) AFRes 25 Sep 87 - 17 May 88 (7 months 23 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 18 May 88 for 6 yrs. Svd: 2 Yrs 8 Mo 22 Das, all AMS.

b. Grade Status: Amn - 4 Oct 90 (Vacation of Article 15, 16 Nov 90)
A1C - (EPR Indicates): 18 May 88-30 Mar 90)

c. Time Lost: None.

d. Art 15's: (1) 06 Dec 90, Spangdahlem AFB, Germany - Article 128. In that you did, on or about 31 Oct 90, unlawfully strike A1C [REDACTED] repeatedly on her head with your fist and attempted to choke her with your hands. Article 134. In that you were, on or about 31 Oct 90, drunk and disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to AB. Fourteen days restriction. (No appeal) (No mitigation)

(2) 16 Nov 90, Vacation, Spangdahlem AFB, Germany - Article 86. In that you did, on or about 29 Oct 90, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman, and forfeiture of \$250.00 pay per month for two months. (No appeal) (No mitigation)

(3) 04 Oct 90, Spangdahlem AFB, Germany - Article 128. In that you did, on or about 21 Sep 90, unlawfully touch [REDACTED] on the buttocks with your hand. Suspended reduction to Airman. Forfeiture of \$300.00 pay per month for two months (forfeiture of \$250.00 pay per month for two months suspended). Thirty days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 19 OCT 90 - Failure to go.
- f. CM: None.
- g. Record of SV: 18 May 88 - 30 Mar 90 Spangdahlem AFB 5 (Initial)
31 Mar 90 - 02 Oct 90 Spangdahlem AFB 3 (CRO)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (3) Yrs (4) Mos (15) Das
TAMS: (2) Yrs (8) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 16 Feb 05.
(Change Discharge to Honorable)

Issue 1: Prior to my discharge, I was one of the top security police at Spangdahlem Air Force Base, FRG (as indicated in my personnel file).

Issue 2: When the incident that led to my eventual discharge occurred, I had less than a week remaining on station.

Issue 3: It is my belief that I was made an example of a new commanding officer.

General Info; When I enlisted in the U.S. Air Force in June 1988, my plan was to be there for the next 20 years. Coming from a military family, that was a goal I fully expected to achieve. On Feb 08, 1991 that goal was taken away from me. It is my opinion that with proper counseling my career could have been saved. Please take into consideration (1) this was my first duty assignment (2) I entered the Military fresh out of high school (3) my time in country was as the old saying goes "short."

ATCH

None.

29MAR05/ia



DEPARTMENT OF THE AIR FORCE
52D SECURITY POLICE SQUADRON (USAFE)
APO NEW YORK 09126-5000



REPLY TO
ATTN OF: CC

10 JAN 1991

SUBJECT: Notification Letter

TO: AB [REDACTED]

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct (conduct prejudicial to good order and discipline). The authority for this action is AFR 39-10, paragraph 5-47b. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 31 Oct 90, you unlawfully assaulted a fellow airman and were drunk and disorderly, for which you received an Article 15 on 6 Dec 90. Your punishment included reduction to the grade of Airman Basic with a new date of rank of 6 Dec 90 and restriction to the limits of Spangdahlem AB for 14 days.

b. On or about 18 Oct 90, you failed to go to a scheduled appointment with Social Actions, Bldg 148, for which you received a Letter of Reprimand, dated 19 Oct 90.

c. On or about 21 Sep 90, you unlawfully assaulted a fellow airman, for which you received an Article 15 dated 4 Oct 90. Your punishment included reduction to the grade of Airman, forfeiture of \$300.00 pay per month for two months (reduction to Airman and forfeiture of \$250.00 pay per month for two months was suspended), and 30 days extra duty.

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 and, 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 Capt [REDACTED] at building 21, telephone ext. 452-6607, Spangdahlem AB, Germany, on 15 Jan 91 at 0900 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 by 15 Jan 91 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 have been scheduled for a medical examination. You must report to the 52TFW Clinic Physical Exams Section at 0700 on 14 Jan 91.

7. 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 Orderly Room, building 129, Room 104, Spangdahlem AB, Germany.

8. Execute the attached acknowledgement and return it to me immediately.


Commander, 52SPS , USAF

2 Atch

1. Documents supporting discharge

1a. AF Form 3070, 6 Dec 90 w/24Atch

1b. 52SPS/CCQ Ltr, 4 Oct 90 w/2Atch

1c. AF Form 3070, 4 Oct 90 w/7Atch

2. Airman's receipt of notification letter