

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> <div style="background-color: black; width: 100px; height: 15px; margin-top: 5px;"></div>		<b>GRADE</b>  SSGT	<b>AFSN/SSAN</b> <div style="background-color: black; width: 100px; height: 15px; margin-top: 5px;"></div>			
<b>TYPE UOTH</b>	X	<b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>			
<b>COUNSEL</b> YES      No		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>				
YES      No X		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<b>MEMBER SITTING</b>		<b>VOTE OF THE BOARD</b>				
		HON	GEN	UOTHC	OTHER	DENY
			X+			
			X+			
			X			
			X+			
			X+			
<b>ISSUES</b> A94.06 A93.19 A94.12		<b>INDEX NUMBER</b> A67.90 A67.03				
<b>EXHIBITS SUBMITTED TO THE BOARD</b>						
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						
<b>HEARING DATE</b>  27 Sep 2005		<b>CASE NUMBER</b>  FD-2005-00102				
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.  Names and votes will be made available to the applicant at the applicant's request.						
+ CHANGE REASON AND AUTHORITY TO CONDUCT PREJUDICIAL TO GOOD ORDER AND DISCIPLINE						
<b>SIGNATURE OF RECORDER</b>		<b>SIGNATURE OF BOARD PRESIDENT</b>				
<b>INDORSEMENT</b>						
<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				

<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</b>	<b>CASE NUMBER</b> <b>FD-2005-00102</b>
<p><b>GENERAL:</b> The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge, and to change the reenlistment code.</p> <p>The applicant appeared and testified before the Discharge Review Board (DRB) without counsel at Andrews AFB, MD, on 27 Sep 2005.</p> <p>The following additional exhibits were submitted at the hearing:</p> <p style="padding-left: 40px;">Exhibit #6: Memorandum from Ellsworth AFB, SD, Area Defense Counsel, dated 27 Jun 90.</p> <p style="padding-left: 40px;">Exhibit #7: Copy of AFR 39-10 Discharge Board Proceeding Transcripts, 19-20 Apr 90</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p><b>FINDINGS:</b> The discharge is upgraded to general and the reason and authority is changed to Conduct Prejudicial To Good Order And Discipline. The Board finds that neither the evidence of record nor 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 characterization and reason and authority for discharge inequitable.</p> <p><b>ISSUE:</b> Applicant received a UOTHC discharge in Jul 90 for Misconduct - Commission of a Serious Offense. His case file contains two Article 15s for his most recent period of service, both for DUI, and three Article 15s for previous periods of service, two for DUI and one for sleeping on post.</p> <p>Applicant contends that his ability to serve was impaired by his use of alcohol as he has been diagnosed by competent medical authority as an alcoholic, he has been able to control this since 1990, and it has been in complete remission since 1997. Although applicant provided no documented evidence that he has been diagnosed as an alcoholic by competent medical authority or that it has been in complete remission since 1997, he states that he self-identified for alcohol treatment programs after his separation, is still enrolled in the 12-Step Program, and that getting married in 1997 has solidified his sobriety. The DRB took note that all but one incident of member's documented misconduct over more than a 13 year period was alcohol related, and that he had been enrolled in three alcohol rehabilitation programs prior to his separation. He contends that his commander at the time of discharge stated he believed applicant was deserving of an Honorable Discharge but was directed to offer him a General Discharge, that at the Administrative Discharge Board, his commander testified that he should have an Honorable Discharge (applicant later changed his issue to state that his commander's testimony was that he should receive a General Discharge), and that he was informed by legal counsel after the Board made their decision that the reason they selected a UOTHC was to send him a strong message to stop drinking. Although there is no documented evidence that his commander ever stated that applicant was deserving of an Honorable Discharge, the DRB examined the Discharge Board Proceedings provided by the applicant which verified that his commander did, in fact, testify that applicant should receive a General Discharge, and that the Board recommended a UOTHC Discharge to send applicant a strong message. He also contends that his performance and conduct were consistently rated excellent as evidenced by his performance reports from 1977 through 1990, the fact that he received the AFCM and AFGCM and the fact that he was personally selected to augment HQ PACAF IG Team, and that his record of promotions and prior Honorable Discharge showed he was a good service member. The DRB took note of the applicant's duty performance as documented by his performance reports and decorations during this and previous periods of service, and agreed that although the Article 15s for DUIs were serious in nature, they were mitigated by his outstanding work performance. The Board also took note that although the DUIs were serious in nature, applicant was the lone occupant of his vehicle and no one was injured or killed as applicant</p>	

was not involved in any accidents. The DRB concluded that a general discharge with the reason being Conduct Prejudicial To Good Order and Discipline were the more appropriate characterization and reason and authority for his discharge.

**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 a General Under Honorable Conditions discharge and the reason for the discharge is more accurately described as Conduct Prejudicial to Good Order and Discipline. The applicant's characterization should be changed to General Under Honorable Conditions and the reason for discharge should be changed to Conduct Prejudicial to Good Order and Discipline 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 SSGT) (HGH TSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr Ellsworth AFB, SD on 2 Jul 90 UP AFR 39-10, para 5-49d (Misconduct - Commission of a Serious Offense). Appeals for an Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 1 Jan 56. Enlmt Age: 21 3/12. Disch Age: 34 6/12. Educ: HS DIPL. AFQT: N/A. A-69, E-73, G-88, M-81. PAFSC: 70270 - Information Management Technician. DAS: 5 Oct 89.

b. Prior Sv: (1) Enlisted as AB 26 Apr 77 for 4 yrs. Extended 7 Mar 79 for 12 months. Extended 17 May 79 for 1 month. Extended 6 May 81 for 6 months. Reenlisted as SSgt 13 Aug 82 for 4 yrs. Svd: 8 yrs 1 month 30 days, all AMS. AMN-(APR Indicates): 26 Apr 77-25 Apr 78. A1C-(APR Indicates): 26 Apr 78-20 Oct 78. SrA-(APR Indicates): 14 May 79-14 Mar 80. Sgt-(APR Indicates): 15 Mar 80-14 Mar 81. SSgt - 1 Jul 81. APRs: 7,8,9,9,9,9,9,9,9,9.

- ART 15's: (1) 4 Apr 80, Wiesbaden AB, Germany - Article 113. You were, on or about 28 Feb 80, at Rhein-Grafenstein, Federal Republic of Germany, being posted as entry controller, found sleeping upon your post on two separate occasions. Forfeiture of \$150.00 per month for two months. (No appeal)(No mitigation)
- (2) 3 Mar 81, Wiesbaden AB, Germany - Article 111. You did, on or about 20 Feb 81, on Theodor Heusa Ring, operate a vehicle, to wit: a passenger car, while drunk. Forfeiture of \$250.00 for one month. (No appeal)(No mitigation)
- (3) 13 Jul 84, Eglin AFB, FL - Article 111. You did, on or about 6 Jul 84, at the West Gate, operate a motorcycle while drunk. Forfeiture of \$400.00 per month for one month (in excess of \$200.00 suspended). (No appeal)(No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 26 Jun 85 for 5 yrs. Extended 27 Sep 88 for 2 months. Svd: 5 Yrs 0 Mo 6 Das, all AMS.

b. Grade Status: SSgt - 12 Mar 90 (Article 15, 12 Mar 90)  
TSgt - 1 Apr 86.

c. Time Lost: None.

d. Art 15's: (1) 12 Mar 90, Ellsworth AFB, SD - Article 111. You did, at or near Box Elder, South Dakota, on or about 4 Mar 90, at or near County Road #223, operate a vehicle, to wit: a passenger vehicle, while drunk. Reduction to SSgt, forfeiture of \$250.00 pay per month for 2 months, and 30 days extra duty. (No appeal) (No mitigation)

(2) 1 Oct 86, Misawa AB, Japan - Article 111. You did, at Misawa AB, Japan, on or about 27 Sep 86, on A Street, Main Gate, operate a vehicle, a passenger car, while drunk. Suspended reduction to SSgt. Forfeiture of \$400.00 pay per month for two months. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 02 Mar 85 - 18 Aug 85 Eglin AFB 9 (CRO)  
 19 Aug 85 - 18 Aug 86 Misawa AB 9 (Annual)  
 19 Aug 86 - 15 May 87 Misawa AB 9 (CRO)  
 16 May 87 - 15 May 88 Misawa AB 9 (Annual)  
 16 May 88 - 15 May 89 Misawa AB 9 (Annual)

h. Awards & Decs: AFCEM, AFOUA, AFGCM, AFOSLTR, AFLSAR W/2 OLCS, SAEMR, AFTR.

i. Stmt of Sv: TMS: (13) Yrs (2) Mos (7) Das  
 TAMS: (13) Yrs (2) Mos (7) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 28 Feb 05.

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

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Five Character References.

12APR05/ia

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

[REDACTED]

Attachment 7 to DD Form 293, Section 8. - ISSUES

Dear Discharge Review Board:

The following issues are the reasons I believe my discharge should be upgraded to Honorable. If you disagree, please explain in detail why you disagree. The presumption of regularity that might normally permit you to assume that the service acted correctly in characterizing my service as less than honorable does not apply to my case because of the evidence I am submitting.

1. My use of alcohol and subsequent off-duty infractions for driving while under the influence impaired my ability to serve. Diagnosis by competent medical authority indicates I suffer from the disease of alcoholism. I have been able to successfully control the disease since 1990; it has been in complete remission since 1997.
2. My performance and conduct were consistently rated excellent as evidenced by my performance reports from 1977 through 1990. The senior endorsement level of these reports strongly indicates my performance and character during those periods exceeded those of many of my peers. Supporting documents (Attachments 1 through 6) show my continued performance and community service through the present.
3. I received the Air Force Commendation Medal, Air Force Good Conduct Medal, and was personally selected to augment the Headquarters PACAF Inspector General Team.
4. My record of promotions and prior Honorable Discharge showed I was a good service member.
5. My commanding officer at the time of discharge stated he believed I was deserving of an Honorable Discharge but was directed to offer me a General Discharge. I accepted the option to have an administrative hearing where my commander testified to his belief that I should receive an Honorable Discharge. Numerous letters of support from previous commissioned and senior noncommissioned officers were in agreement. I was informed by legal counsel after the administrative discharge board made their decision that the reason they elected to characterize my service as Under Other Than Honorable Conditions was to send me a strong message that I should stop drinking. I truly believe their decision did not objectively weigh all the facts in characterizing my service to our country.
6. I respectfully request you review the evidence presented to the 1990 administrative discharge board and change my discharge from the Air Force to Honorable and the reason for discharge to Convenience of the Government.

Very respectfully,

[REDACTED]



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 28TH BOMBARDMENT WING (SAC)  
ELLSWORTH AIR FORCE BASE, SD 57706

FD 2005-00102

CC

28 Mar 90

Notification Letter - Board Hearing

[REDACTED]

1. I am recommending your discharge from the United States Air Force for the commission of serious offenses according to AFR 39-10, under the provision of paragraph 5-49d. 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 4 Mar 90, you operated a passenger vehicle while drunk at or near Box Elder, SD.

b. On or about 27 Sep 86, you operated a passenger vehicle while drunk at A Street on Misawa AB, Japan.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive a general 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 were scheduled for a medical examination. You should have reported to the Base Hospital, Physical Exams at 0815 on 22 Mar 90.

6. Military legal counsel [REDACTED] has been obtained to assist you. An appointment has been scheduled for you to consult him on 29 Mar 90 at 1430 hrs Bldg 2405. Instead of the appointed counsel, you may have another, if the lawyer you request is 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.

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

  
Commander

3 Atch

1. Supporting documents
2. Documents containing derogatory information-which is not listed in the notification letter
3. Airman's acknowledgment