

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE SGT	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE UOTH	PERSONAL APPEARANCE	X	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

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

ISSUES A93.11 A93.01	INDEX NUMBER A93.11 A94.07	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 5px; text-align: center;">1</td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 5px; text-align: center;">2</td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 5px; text-align: center;">3</td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 5px; text-align: center;">4</td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE</td> </tr> </tbody> </table>	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
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HEARING DATE 01 Jun 2006	CASE NUMBER FD-2005-00429	
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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, 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.

SIGNATURE OF RECORDER 	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT		DATE: 6/7/2006
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-2005-00429

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.

No additional exhibits or issues were submitted for review by the DRB

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE: The applicant acknowledged the "mistake" he made that led to his discharge. He also acknowledged that he made "some bad financial choices" while at a young age. The applicant received a UOTH discharge in lieu of a trial by court-martial on 19 March 1992. The applicant's offenses consisted of numerous violations of Article 123a, Uniform Code of Military Justice, in that he uttered multiple bad checks for the procurement merchandise and/or lawful currency from the base exchange, commissary, the Union Square Federal Credit Union, the Sheppard AFB Bank, and other agencies within his base community. An OSI report reflects the applicant admitted "floating" checks totaling in excess of \$68,000 over a 48-month period (from between April 1987 and August 1991) with insufficient funds to cover the checks in his bank account at a given time. In response to the discharge action the applicant wrote that he "did not intend to defraud AAFES in any way," citing he had "too many expenses at home" and only wanted to have enough money to "cover [him] until pay day." The applicant reported that he had no gambling or drug problems as possible factors in his check writing behavior. The DRB acknowledged the death of the applicant's mother in September 1989. However, absent medical or other supporting evidence, the DRB found no causal or mitigating relationship between the death of the applicant's mother and his subsequent check writing behavior. Additionally, the DRB believed that had the applicant received timely financial counseling, the lengthy course of his check writing behavior may have been interrupted or corrected much earlier. Nonetheless, the clandestine nature of the applicant's behavior deprived his supervisors of the knowledge and awareness of his self-reported financial difficulties resulting in the delay in directing financial counseling. The DRB was pleased to see that since the applicant's discharge he is reportedly "financially sound" and a "successful business owner." However, based upon all currently available facts and evidence in the applicant's case, the DRB found no compelling basis upon which to justify a change in characterization of his military service.

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

(Former SGT) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF Sheppard AFB, TX on 17 Mar 92 UP AFR 39-10, Chapter 4 (Discharge in Lieu of Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 23 Sep 67. Enlmt Age: 17 10/12. Disch Age: 24 5/12. Educ: HS DIPL. AFQT: N/A. A-72, E-50, G-53, M-72. PAFSC: 55550 - Production Control Specialist. DAS: 30 May 86.

b. Prior Sv: (1) AFRes 22 Aug 85 - 23 Feb 86 (6 months 2 days) (Inactive).

(2) Enlisted as AB 24 Feb 86 for 4 yrs. Extended 26 Oct 89 for 23 months. Svd: 5 yrs 4 months 3 days, all AMS. AMN-(APR Indicates): 24 Feb 86-23 Feb 87. A1C-(APR Indicates): 24 Feb 87-25 Nov 87. SrA - 24 Feb 89. Sgt - 24 Feb 89. APRs: 9,9,8. EPRs: 3,3,3.

ART 15: 1 Feb 89, Sheppard AFB, TX - Article 107. You, did, on or about 23 Jan 89, with intent to deceive, make to MSgt [] an official statement, to wit: that you had a dental clinic appointment, which statement was totally false, and was then known by you to be so false. Suspended reduction to Airman. Suspended forfeiture of \$50.00 pay. Suspended 7 days correctional custody. (No appeal) (No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as Sgt 28 Jun 91 for 4 yrs. Svd: 00 Yrs 08 Mo 19 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFOUA W/1 OLC, NDSM, AFLSAR, NCOPMER, AFTR.

i. Stmt of Sv: TMS: (06) Yrs (06) Mos (27) Das

TAMS: (06) Yrs (00) Mos (22) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 04 Nov 05.
(Change Discharge to Honorable)

Issue 1: I know I made a mistake that lead (sic) to my early seperation (sic), I would like to think that the six proud years I served in the US Air Force was for not. I was young and made some bad financial choices that lead (sic) to my early release and now thirteen and a half years later I am financially sound, a successful business owner and am trying to clear up past mistakes. Please take into consideration my honorable discharge from 1986 to 1990, this UOTH Discharge was placed in 1992. Thank you!

ATCH
None.

12DEC05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SHEPPARD TECHNICAL TRAINING CENTER (ATC)
SHEPPARD AIR FORCE BASE TX 76311-5122

12 MAR 1992

REPLY TO
ATTN OF: JAM (Capt [redacted])SUBJECT: Review of Request for Discharge in Lieu of Trial by Court-Martial: Sgt
[redacted], 3750 CESTO: 3750 SPTG/CC
CC [redacted]
IN TURN

1. Sgt [redacted] has submitted a letter dated 11 Feb 92 to the Commander, 3750th Civil Engineering Squadron, requesting discharge in lieu of trial by court-martial. Charges were preferred against Sgt [redacted] on 22 Jan 92. The charges have not yet been referred to trial. The charge and six specifications against Sgt [redacted] consist of numerous violations of Article 123a, Uniform Code of Military Justice, in that Sgt [redacted] wrote bad checks Exchange, the Commissary, the MWR Fund, and the SATO on accounts from Union Square Federal Credit Union and Sheppard Bank over a period from 1 Mar 91 to 26 Sep 91.

2. Sgt [redacted] has consulted his counsel, Capt [redacted]. He has acknowledged understanding the elements of the offenses charged. He has also acknowledged the possibility of receiving an Under Other Than Honorable Conditions (UOTHC) discharge and the adverse effects of such a discharge. Sgt [redacted] is not authorized lengthy service consideration.

3. Col Black, in a letter dated 26 Feb 92, recommends that the request for discharge in lieu of trial by court-martial be disapproved. He states that the magnitude, duration and intent of the offense warrants severe disciplinary action. He contends a simple Article 15 or discharge would seriously undermine good order and discipline in the squadron. He further states that if the discharge is approved he recommends that Sgt [redacted] be furnished with a UOTHC discharge. Col [redacted] letter further includes information concerning Sgt Salazar's military record in accordance with AFR 39-10, para 6-1.

4. Sgt [redacted] is 24 years of age, he is married and has been on active duty since 29 Feb 86. His current enlistment began on 28 Jun 91. He is entitled to wear the Air Force Outstanding Unit Award, the Air Force Good Conduct Medal, the Air Force NCO PME Graduate Ribbon, the National Defense Service Medal, the Air Force Longevity Service Award Ribbon, and the Air Force Training Ribbon. Sgt Salazar has received 3 EPRs and 3 APRs. The overall ratings on the EPRs are 3, 3, and 3. The overall ratings on the APRs are 8, 9, and 9. These ratings were listed from the most recent to the earliest. There is additional derogatory data in Sgt [redacted] file consisting of an Article 15 for violation of Article 107, UCMJ, False Official Statement, dated 1 Feb 89.

5. In support of Sgt [] request for discharge, Capt. [] his defense counsel, has included a letter dated 11 Feb 92. Capt. [] states that Sgt [] discharge in lieu of court-martial should be accepted in the interest of justice because Sgt [] has cooperated in every aspect of the OSI's investigation into these offenses. He gave statements, signed a release so that the OSI would gain easier access to his financial records, explained his financial records, and waived his right to an Article 32 hearing. Capt. [] further states that Sgt [] problems started when he got behind in his house payments and that his situation continued downhill from there; that while Sgt [] had several large deposits made to his accounts, he had no control over his financial situation; that money seemed to slip right through his hands. Capt. [] further states that although Sgt [] is charged with a large number of checks within the 6 specifications, all of the checks have been redeemed. Capt. [] further states that Sgt [] has kept his agreement with AAFES on the repayment schedule, that he is sorry for his conduct and that he believes he can overcome this and again become a trusted, productive citizen. Capt. [] further states that Sgt [] is the primary support for his wife and 4-year-old daughter, that he understands the seriousness of the offenses, and that he asks that you take his family into account. He further states that even a discharge in lieu of court-martial would have a serious effect on his ability to find work and support his family. Capt. [] goes on to state the reason Sgt [] wrote these bad checks was so that his family could make it between paydays, that a punitive discharge is not an appropriate badge of dishonor for him to carry for the rest of his life, and that the likely civilian criminal court sentence would be an order of restitution, probation and community service. Capt. [] acknowledges that Sgt [] does not deserve your continued trust as a member of the United States Air Force and that he has forfeited his right to wear the uniform, but he urges that you show leniency, that you accept the Chapter 4, since Sgt [] is willing to accept a UOTHC discharge.

6. The procedures involved and the basis for this separation action are in compliance with applicable laws and directives. The fact that this individual is triable by court-martial that could adjudge a punitive discharge reflects the serious nature of this misconduct. Usually, airmen discharged under this chapter of AFR 39-10 will have their service characterized as being UOTHC. Subject to the inclusion of a completed report of physical examination indicating that Sgt [] has been medically cleared for separation, the case file is complete and legally sufficient.

7. Sgt [] has shown for the past few months that he can live within his means and he has made restitution for his offenses. By doing so, he has earned some consideration toward leniency. Because he is the sole support for his family, it would be appropriate to show him such leniency as would enable him to go out and seek employment, even though the nature of a UOTHC will cause him some trouble in finding future employment. I believe the needs of justice will be served by the approval of a UOTHC discharge, although this is contrary to the recommendation of the squadron commander.

8. RECOMMENDATIONS:

For 3750th SPTG/CC: As the Special Court-Martial Convening Authority, you may, in accordance with AFR 39-10, para 4-4, take the following action with regards to this request:

- a. Forward to STC/CC recommending approval; or
- b. Disapprove the request and return it to us requesting referral of charges.

I recommend that you forward this request to STC/CC recommending approval.

For STC/CC: As the General Court-Martial Convening Authority, you may, in accordance with AFR 39-10, para 4-12, take the following action with regard to this request:

- a. Approve the request for discharge and direct that Sgt: [] be separated with a UOTHC discharge;
- b. Approve the request for discharge, but direct that Sgt: [] service characterization be either honorable or general under honorable conditions. If this is the case, AFR 39-10, para 4-12(a)(2), requires that reasons be given why the service characterization was other than a UOTHC discharge; or
- c. Disapprove the request and direct that Sgt: [] be court-martialed.

I recommend you approve this request for discharge in lieu of trial by court-martial and direct that Sgt: [] be separated with a UOTHC discharge.

[]
Staff Judge Advocate

1 Atch
3750 GES/CC Ltr w/atchs