

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AB

TYPE BCD

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

UOTHC

OTHER

DENY

X

X

X

X

X

ISSUES

A94.05

INDEX NUMBER

A68.00

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

22 Aug 2006

CASE NUMBER

FD-2006-00005

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard in 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

INDORSEMENT

DATE: 8/23/2006

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-2006-00005**

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

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:**

Although not explicitly stated, the applicant suggested that his misconduct was inequitable because it was too harsh. Applicant contends the command administered unequal punishment to the parties involved with the misconduct. The records indicated the applicant had a Special Court Martial, an Article 15, a Vacation, and a Letter of Reprimand for misconduct. The applicant plead guilty to ten specifications at the Special Court Martial Board for the procurement of things of value and for wrongfully and unlawfully writing checks that he did not have sufficient funds for the payment of said checks. He received an Article 15 for failure to go at the time prescribed to his appointed place of duty. He was punished with a suspended reduction to airman, restricted to base for 30 days and a reprimand. The Vacation action resulted from the applicant making a false statement to a Security Forces member. He received a reduction in grade to airman. The records also indicated he received a Letter of Reprimand for being absent without leave. 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.

The applicant did not receive an administrative discharge, thus his contention of inequity is not applicable. The applicant received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court-Martial conviction. Under the provisions of Section 1553, 10 USC, the only basis for a change of a Bad Conduct discharge is clemency. The applicant presented evidence which the DRB opined did not warrant granting clemency.

**CONCLUSIONS:** The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

Attachment:  
Examiner's Brief

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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF Vance AFB, CA on 29 Jul 02 UP SPCMO AC-3 No.1 (Conviction by Court Martial). Appeals for General Discharge.

2. **BACKGROUND:**

a. DOB: 18 Mar 80. Enlmt Age: 19 1/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-32, E-64, G-72, M-52. PAFSC: 1C131 - Air Traffic Controll Apprentice. DAS: 16 Nov 99.

b. Prior Sv: (1) AFRes 30 Apr 99 - 25 May 99 (26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 May 99 for 6 yrs. Svd: 03 Yrs 02 Mo 05 Das, of which AMS is 02 Yrs 10 Mos 16 Das (excludes 3 months 19 days).

b. Grade Status: AB - 13 Oct 01 (SPCMO AC-3 No.1, 23 Jul 01)  
Amn - 01 Sep 00 (Vacation of Article 15, 21 Dec 00)  
A1C - 16 Jul 99

c. Time Lost: 13 Jun 01 thru 29 Sep 01 (3 months 19 days).

d. Art 15's: (1) 21 Dec 00, Vacation, Vance AFB, CA - Article 107. You, did, on or about 2 Dec 00, with intent to deceive, make to SSgt [REDACTED], a Security Forces member who was attempting to aid you in investigating an alleged theft of your personal property, an official statement to wit: your wallet, DD Form 2 AF, checkbook and an extra box of checks were missing and that you had not been to Texaco today, which statement was false in that the items you reported missing were at A1C [REDACTED] house where you stored them and you had in fact been to Texaco in Oklahoma City where you tried to purchase gas with a check, and was then known by you to be so false. You did, on or about 2 Dec 00, with intent to deceive, make to SSgt [REDACTED], a Security Forces member who was attempting to aid you in investigating an alleged theft of your personal property, an official statement, to wit: you did not go to Texaco today and that you threw away your checkbook with all of the carbons, which statement was false in that you were in fact at Texaco in Oklahoma City where you tried to purchase gas with a check and you did not throw away your checkbook and carbons, you left them at A1C [REDACTED] house, and was

then known by you to be so false. Reduction to Airman.  
(No appeal) (No mitigation)

- (2) 1 Sep 00, Vance AFB, CA - Article 86. You did, between on or about 22 Aug 00 and on or about 24 Aug 00, on divers occasions, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 71 Operations Support Squadron located at Building 795. Suspended reduction to Airman. Restriction to Vance AFB, Oklahoma for 30 days. Reprimand. Remission of base restriction in excess of 29 days. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 10 JUL 00 - Absent without leave.

f. CM: Special Court-Martial Order No.1 - 23 Jul 01

CHARGE I: Article 123a. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Oklahoma City, Oklahoma, between on or about 1 Dec 00 and 2 Dec 00, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Lowe's Home Improvement Store, a certain check upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 627, dated 1 Dec 00, for \$334.62, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said check in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 2: Did, at or near Oklahoma City, Oklahoma, between on or about 1 Dec 00 and on or about 2 Dec 00 did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Target, a certain check upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 629, dated 1 Dec 00, for \$337.63, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said check in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 3: Did, at or near Oklahoma City, Oklahoma, on divers occasions, between on or about 1 Dec 00 and on or about 2 Dec 00 did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Barnes and Noble Book Store, certain checks upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 630, dated 1 Dec 00, for \$269.69, and Check No. 648, dated 2 Dec 00, for \$283.70, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said checks in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 4: Did, at or near Oklahoma City, Oklahoma, on divers occasions, between on or about 1 Dec 00 and on or about 2 Dec 00, with intent to deceive and for the procurement of things

of value, wrongfully and unlawfully make to Walgreen's, certain checks upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No.633, dated 1 Dec 00, for \$361.93, and Check No. 640, dated 2 Dec 00, for \$319.26, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said checks in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 5: Did, at or near Oklahoma City, Oklahoma, on divers occasions, between on or about 1 Dec 00 and on or about 2 Dec 00, did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Wal-Mart, certain checks upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 636, dated 2 Dec 00, for \$349.99, Check No. 637, dated 2 Dec 00, for \$401.88, Check No.635, dated 1 Dec 00, for \$354.71, and Check No.643, dated 2 Dec 00, for \$354.71, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said checks in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 6: Did, at or near Oklahoma City, Oklahoma, on divers occasions, between on or about 1 Dec 00 and on or about 2 Dec 00, did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Home Depot, certain checks upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 644, dated 2 Dec 00, for \$304.21, Check No. 645, dated 2 Dec 00, for \$353.83, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said checks in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 7: Did, at or near Oklahoma City, Oklahoma, between on or about 1 Dec 00 and on or about 2 Dec 00, did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Staples, certain checks upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 649, dated 2 Dec 00, for \$310.49, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said checks in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 8: Did, at or near Oklahoma City, Oklahoma, between on or about 1 Dec 00 and on or about 2 Dec 00, did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Office Depot, certain checks upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 603, dated 2 Dec 00, for \$355.87, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said checks in full upon its presentment. Plea:

Guilty. Finding: Guilty.

Specification 9: Did, at or near Oklahoma City, Oklahoma, between on or about 1 Dec 00 and 2 Dec 00, did, with intent to deceive and for the procurement of things of value, wrongfully and unlawfully make to Applebee's, a certain check upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 634, dated 1 Dec 00, for \$300.00, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said check in full upon its presentment. Plea: Guilty. Finding: Guilty.

Specification 10: Did, at or near Oklahoma City, Oklahoma, between on or about 1 Dec 00 and on or about 2 Dec 00, did, with intent to defraud and for the procurement of things of value, wrongfully and unlawfully make to Sear Department Store, a certain check upon the Safe Federal Credit Union, in words and figures as follows, to wit: Check No. 626, dated 2 Dec 00, for \$323.61, then knowing that he, the maker thereof, did not or would not have sufficient funds in or credit with such credit union for the payment of the said check in full upon its presentment. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 107. Plea: Guilty. Finding: Guilty.

Specification: Did at or near Vance AFB, Oklahoma, on or about 2 Dec 00, with intent to deceive, make to SSgt [redacted], a Security Forces member who was attempting to aid him in investigating an alleged theft of his personal property, an official statement, to wit: his wallet, DD Form 2 AF, checkbook and an extra box of checks were missing and that he had not been to Texaco today, which statement was false in that the items he reported missing were at A1C [redacted] house where he stored them and he had in fact been to Texaco in Oklahoma City where he tried to purchase gas with a check, and was then known by the said A1C [redacted] to be so false. Plea: Guilty. Finding: Guilty. Sentence adjudged by military judge on 12 Jun 01: Bad conduct discharge, confinement for 5 months, and reduction to AB.

g. Record of SV: 26 May 99 - 25 Jan 01 Vance AFB 2 (Initial)REF

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (12) Das  
TAMS: (02) Yrs (10) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 30 Dec 05.  
(Change Discharge to General)

Issue 1: I received a BCD and was only a participant in the deed for which I was discharged. The instigator and person who planned the deed was given immunity to testify against me and received no punishment. I believe the command administered unequal punishment for the same deed. I have less than 1 year left to receive my 4 year degree. I have worked dilligently (sic) since my

discharge to make up for my immature actions in the USAF. I have a 6 year old son for whom I am responsible as a single parent. My discharge limits my employment opportunities greatly. A compassionate review and favorable adjudication is requested.

**ATCH**  
None.

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