

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []	GRADE SSGT	AFSN/SSAN []
--	---------------	------------------

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
-----------------	----------------------------	----------	----------------------

COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td align="center">X</td> <td></td> </tr> </table>	YES	No	X		AMERICAN LEGION	WASHINGTON DC DC 20003
YES	No					
X						

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

ISSUES A92.01 A94.05	INDEX NUMBER A67.90	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE HE</td></tr> </table>	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 HE
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 HE															

HEARING DATE 20 Mar 2007	CASE NUMBER FD-2005-00474	
-----------------------------	------------------------------	--

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.

* Reason and Authority

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
-----------------------	------------------------------

INDORSEMENT 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
---	--

DATE: 3/21/2007

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00474

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 and change of reason and authority for discharge are 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:

Issue 1. Although not explicitly stated, applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, a Vacation, a Letter of Reprimand and a civilian conviction for misconduct. The applicant received his first Article 15 for assaulting his wife by pushing down on her head with his forearm, assaulting his wife by grabbing her hair, holding her head down and punching the back of her head with a closed fist, and violation of a no-contact order. He was punished with a reduction in grade to Technical Sergeant and forfeiture of pay for two months. His second Article 15 was for unlawfully head-butting and pushing his wife. He received a suspended reduction in grade to Staff Sergeant, restriction to base for 60 days and a reprimand. His demotion was later vacated due to disorderly conduct. The record also indicated the applicant received a Letter of Reprimand for failure to obey a lawful order and that he had a civilian conviction for domestic violence. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the applicant's 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.

Issue 2. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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 SSGT) (HGH MSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Scott AFB, IL on 8 Aug 05 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 8 Apr 70. Enlmt Age: 17 8/12. Disch Age: 35 4/12. Educ: HS DIPL. AFQT: N/A. A-72, E-73, G-66, M-67. PAFSC: 1C771 - Airfield Management Operations Technician. DAS: 25 May 02.

b. Prior Sv: (1) AFRes 29 Dec 87 - 11 Aug 88 (7 months 14 days) (Inactive).

(2) Enlisted as AB 12 Aug 88 for 4 yrs. Reenlisted as SrA 21 Oct 91 for 4 yrs. Reenlisted as SSgt 31 Jul 95 for 6 yrs. Extended 3 Apr 00 for 26 months. Svd: 12 yrs 8 months 3 days, all AMS. Amn - 12 Feb 89. A1C - 12 Dec 89. SrA - 12 Feb 91. SSgt - 1 May 95. TSgt - 6 Feb 98. EPRs: 4,4,5,5,5,5,5,5,5,5,5,5,5,5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as TSgt 16 Apr 01 for 6 yrs. Svd: 03 Yrs 04 Mo 22 Das, all AMS.

b. Grade Status: SSgt - 7 May 04 (Vacation of Article 15, 27 Oct 04)
TSgt - 28 Jan 03 (Article 15, 28 Jan 03)
MSgt - 01 Jan 02

c. Time Lost: None.

d. Art 15's: (1) 27 Oct 04, Kadena AB, Japan - Article 134. You, were, at or near Anchorage, Alaska, on or about 3 Sep 04, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to SSgt. (No appeal) (No mitigation)

(2) 7 May 04, Kadena AB, Japan - Article 128. You, did, on or about 26 Feb 04, unlawfully head-butt and push Athena Koch. Suspended reduction to SSgt. Restriction to the limits of Kadena Air Base, Okinawa, Japan for 60 days. Reprimand. (No appeal) (No mitigation)

(3) 28 Jan 03, Kadena AB, Japan - Article 128. You did, between on or about 1 Jul 02 and on or about 31 Jul 02, unlawfully assault your wife by pushing down on her head

with your forearm. You did, on or about 4 Nov 02, unlawfully assault your wife by grabbing her hair, holding her head down, and punching the back of her head with your closed fist. You did, having knowledge of a lawful order issued by MSgt: [REDACTED] to have no contact with your wife, an order which it was your duty to obey, on divers occasions between on or about 15 Nov 02 and on or about 20 Nov 02, fail to obey that order. Reduction to TSgt, and forfeiture of \$500.00 pay per month for two months. (Appeal/Denied) (No mitigation)

e. Additional: LOR/UIF, 6 OCT 04 - Failure to obey a lawful order.
14 DEC 04 - Civilian conviction for domestic violence assault against his wife.

f. CM: None.

g. Record of SV: 04 Jul 00 - 03 Jul 01 Eielson AFB 5 (Annual)
04 Jul 01 - 01 May 02 Eielson AFB 5 (CRO)
02 May 02 - 30 Apr 03 Kadena AB 3 (Annual)REF
02 May 03 - 02 Oct 03 Kadena AB 5 (CRO)
03 Oct 03 - 02 Oct 04 Kadena AB 3 (Annual)REF

h. Awards & Decs: AFCM W/3 OLCS, JSAM, AFAM W/1 OLC, JMUA, AFOUA W/3 OLCS, AFGCM W/4 OLCS, NDSM W/1 SS, GWOTEM, KDSM, AFOSSTR W/1 OLC, AFLSAR W/3 OLCS, NCOPMER W/1 OLC, SAEMR, AFTR.

i. Stmt of Sv: TMS: (17) Yrs (07) Mos (11) Das
TAMS: (16) Yrs (11) Mos (28) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 05 Dec 05.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. SAF/MRBR Ltr, 9 Dec 05.

07FEB06/ia

27 DEC 2005

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

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION:

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE			d. SOCIAL SECURITY NUMBER	
	E-5/SSgt				

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
20050808	<input type="checkbox"/> HONORABLE	<input checked="" type="checkbox"/> CHANGE TO HONORABLE
	<input type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)	<input checked="" type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
	<input type="checkbox"/> UNCHARACTERIZED	MENTAL CONDITION
	<input type="checkbox"/> OTHER (Explain)	

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION
18 OSS, KADENA AB

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)
My service during my time of service was with outstanding military records as indicated in my records. My civilian conviction or action tantamount to finding of guilty is no longer active in the State of Alaska. All items in the letter of Reprimand toward the end of my service time are no longer a factor in my personal life. My personal life is in order and I will take the proper corrective actions in the future to ensure it remains Honorable.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)
Attachment 2 -- 9 December 2005

9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/> CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
<input checked="" type="checkbox"/> I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.
<input checked="" type="checkbox"/> I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state). (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10. a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)	b. TELEPHONE NUMBER (Include Area Code)
American Legion	
	c. E-MAIL
	d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13. a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> OTHER (Specify)
12. a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)					
b. TELEPHONE NUMBER (Include Area Code)					
c. E-MAIL					
d. FAX NUMBER (Include Area Code)					

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)	CASE NUMBER (Do not write in this space.)
a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)
	20051223

14. CONTINUATION OF ITEM 8, ISSUES (If applicable)

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

MENTAL CONDITION - I was unable to see that I needed to remove myself from my destructive marriage until it was way too late. If all supporting documentation in my Family Advocacy file is saying I was deliberately misbehaving it is wrong. I was not intentionally misbehaving!

Because of my inability to cope with my partner's behavior, I was unable to process the punishment mentally. I was shut down, thinking it would all blow over. As mentioned in responses to Article 15's, I was sorry but honestly could not process what I needed to do in order to rectify my situation.

I decided to take the General Discharge in lieu of going to a board because I did not believe the outcome would be favorable, and I was still digesting what was and is happening.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

5 Dec 2005

MEMORANDUM FOR REVIEWING AUTHORITY

FROM: [REDACTED]

SUBJECT: Request for record correction, General to Honorable Discharge

1. I am requesting that my General Discharge be upgraded to an Honorable Discharge. Throughout the course of the 3 ½ years that I was issued a Letter of Reprimand after receiving 2 Article 15's and a Civilian Conviction of Misdemeanor Domestic Violence Assault I have now discovered much evidence to support my request.
2. My spouse at the time was [REDACTED]. I have discovered that there are many lies she had twisted and told to me making me believe that things were a certain way in our relationship only to discover now that I was, for lack of better words, a sucker. During a post-divorce claim she claimed that I had given her a sexually transmitted disease, I do not have this disease. Who gave it to her? The bruises utilized in Police Records did not come from me! Where did they come from? At this time, I cannot answer it...I am still working on this.
3. I completed all of the Men's Group classes required both, by the Air Force and the Alaska Civilian Authorities. My Alaska Probation will be considered served on 14 Dec 2005, without incident. I feel that I have utilized the information taught to me in order to learn from my "life mistakes" and have started on my journey to make a better life for myself without violence.
4. While working in the military as an Airfield Management Specialist I consistently worked long hours thinking that my hard work and dedication was going to pay off if something bad were to ever happen that required my character to be reviewed or scrutinized. This is just my nature, not because I felt that I was a bad person and would ever have that type of situation. I plead that I made a bad choice in a marriage partner and only had the best intentions of keeping the marriage together because I felt that it was the right thing to do, not because I liked my partner's promiscuity, ill-mannered behavior or misconduct. I will probably never know the extent of her behavior but I am making positive steps toward making sure I do not get close to problematic situations again!
5. I took a General Discharge because I felt that it was the better of two evils. I could be discharged for the situation I had put myself in under "Dishonorable" (being left up to the board, and things were already not favoring me) or take the "General" in order save what I had left of a career. I still bleed blue and would love nothing more than to complete my 3 years of a career. I would even be willing to start at my 12-year point if I could only rejoin and serve in any branch! Please upgrade my discharge from General to Honorable.
6. I apologize for my actions and choices in the past! If you have any questions or concerns please feel free to contact me at: [REDACTED]

[REDACTED]



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

7 April 2005

MEMORANDUM FOR 18 WG/CC

FROM: 18 WG/JA

SUBJECT: Legal Review Administrative Discharge – SSgt: [REDACTED]
18 OSS, Kadena AB, Japan

1. **Basis of Action.** Lt Col: [REDACTED], 18 OSS/CC, initiated this administrative discharge action against SSgt: [REDACTED] for a Pattern of Misconduct – Conduct Prejudicial to Good Order and Discipline, under the provisions of AFI 36-3208, paragraph 5.50.2. 18 OSS/CC recommends that SSgt: [REDACTED] conditional waiver be accepted and that he be separated with a general discharge without suspension for probation and rehabilitation.

2. **Summary of Evidence in Support of the Discharge.**

a. Between 1 Jul 02 and 31 Jul 02, SSgt: [REDACTED] assaulted his wife by pushing down on her head with his forearm.¹

b. On 4 Nov 02, SSgt: [REDACTED] assaulted his wife again by grabbing her hair, holding her head down and punching the back of her head with his fist.

c. On several occasions between 15 Nov 02 and 20 Nov 02, SSgt: [REDACTED] violated a lawful order to have no contact with his wife.

As a result of the above listed misconduct, SSgt: [REDACTED] received an Article 15 on 28 Jan 03. His punishment included a reduction to TSgt, forfeiture of \$500 pay per month for two months and a reprimand (Tab 1-1).

d. On 26 Feb 04, SSgt: [REDACTED] head-butted and pushed his wife. As a result, he received an Article 15 on 7 May 04. His punishment included a suspended reduction to SSgt, 60 days restriction to base and a reprimand (Tab 1-2).

e. On several occasions between 12 Mar 04 and 1 Jun 04, SSgt: [REDACTED] violated a lawful order to have no contact with his wife. As a result, he received a Letter of Reprimand (LOR) on 6 Oct 04 and an Unfavorable Information File (UIF) was established (Tab 1-3).²

¹ SSgt: [REDACTED] wife at the time was: [REDACTED]. We are advised they were subsequently divorced at some point in the Dec 03-Jan 05 timeframe, though the exact date is not reflected in the file.

² Note that the 6 Oct 04 LOR provides a good summary background as to the many incidents and events that undergird this discharge action.

f. On 3 Sep 04, in Anchorage, AK, SSgt: [redacted] was disorderly by yelling at his wife. As a result, the suspended portion of his nonjudicial punishment was vacated on 27 Oct 04 and he received a reduction to SSgt. Additionally, as a result of SSgt: [redacted] misconduct, he missed his scheduled deployment and another member of the squadron was compelled to hurriedly pack his bags and deploy to fill the gap caused by SSgt: [redacted] (Tabs 1-3, 1-4).

g. On 3 Sep 04, in Anchorage, AK, SSgt: [redacted] assaulted his wife by punching her in the face. As a result, on 14 Dec 04, a judgment was entered against SSgt: [redacted] for domestic violence assault in the District Court for the State of Alaska at Anchorage. The imposition of sentence was suspended and he was placed on probation for a period of one year, subject to the following orders and conditions: to pay a \$500 fine plus a \$50 surcharge, to make restitution, to commit no jailable offenses during the period of probation, to complete a domestic violence intervention program and to have no contact with Ms: [redacted] (Tab 1-5).

3. Summary of Evidence for the Servicemember.

a. SSgt: [redacted] is a 34-year-old Chief, Airfield Management Operations (CAMO) who entered active duty on 12 Aug 88. His AQE scores are A-76 E-69 G-64 M-62. He is entitled to wear the AF Commendation Medal with four oak leaf clusters, AF Achievement Medal with two oak leaf cluster, Joint Services Achievement Medal with one oak leaf cluster, NCO Professional Military Education Ribbon with one oak leaf cluster, Small Arms Expert Rifle Ribbon, Longevity Service Award with three oak leaf clusters, AF Overseas Service Ribbon, AF Outstanding Unit Award with three oak leaf clusters, National Defense Service Medal with one oak leaf cluster and the Air Force Training Ribbon.

b. Overall ratings on Enlisted Performance Reports (Tab 5):

03 Oct 03 – 02 Oct 04 (3) Referral
2 May 03 – 2 Oct 03 (5)
1 May 02 – 30 Apr 03 (3) Referral
4 Jul 01 – 1 May 02 (5)
4 Jul 00 – 3 Jul 01 (5)
9 Dec 99 – 3 Jul 00 (5)
9 Dec 98 – 8 Dec 99 (5)
5 Dec 97 – 8 Dec 98 (5)
5 Dec 96 – 4 Dec 97 (5)
2 Jun 96 – 4 Dec 96 (5)
2 Oct 95 – 1 Jun 96 (5)
2 Oct 94 – 1 Oct 95 (5)
11 Nov 03 – 1 Oct 94 (5)
29 Jan 93 – 10 Nov 93 (5)
25 Jul 92 – 28 Jan 93 (5)
3 Mar 92 – 24 Jul 92 (5)
1 Sep 91 – 2 Mar 92 (5)
19 Feb 91 – 31 Aug 91 (5)
12 Apr 90 – 18 Feb 91 (4)
12 Aug 88 – 11 Apr 90 (4)

c. SSgt: [redacted] consulted military defense counsel (Capt: [redacted]). On 11 Mar 05, SSgt: [redacted] submitted a waiver of his right to an administrative discharge board hearing on

the condition he receive no less than a general discharge. On the same date, SSgt [redacted] submitted a request for lengthy service consideration and probation for the time he needs to reach minimum retirement eligibility. These requests are IAW AFI 36-3208, paragraph 6.35 and AFI 36-3203^{3,4} (Tab 4).

4. Errors and Irregularities.

a. The 3 Mar 05, Letter of Notification, paragraph 2, incorrectly reflects that SSgt [redacted] received a reprimand as part of his 28 Jan 03, Article 15 punishment. This minor error does not affect the legal sufficiency of this action.

b. Note that both a state court conviction and a vacation action followed in the wake of SSgt [redacted] 3 Sep 04 conduct while on leave in Alaska. With respect to the 27 Oct 04 vacation action, note that the MCM, Part V, paragraph 1f(5) as implemented by AFPD 51-2, paragraph 7 prevents—absent SAF approval—the punishment of personnel under Article 15, UCMJ for substantially the same conduct for which a state court has tried them. That noted, this limitation is inapplicable here as the “vacation of a suspended nonjudicial punishment is not itself nonjudicial punishment.” See the MCM, Part V, paragraph 6a(5)).

5. Discussion.

a. Basis for Discharge.

(1) AFI 36-3208, paragraphs 5.50 and 5.50.2, provide, in pertinent part (paraphrased to a degree for clarity purposes) as follows:

Airmen are subject to discharge for a Pattern of Misconduct for acts of misconduct in the current enlistment which are, in whole or in part, more serious than minor disciplinary infractions. Conduct Prejudicial to Good Order and Discipline includes conduct of a nature that tends to disrupt order, discipline, or morale within the military community. This category of misconduct usually involves causing dissent, disruption, and degradation of mission effectiveness. It also includes conduct of a nature that tends to bring discredit on the Air Force in the view of the civilian community.

(2) SSgt [redacted] lengthy disciplinary record in this enlistment—which began 16 Apr 01—underscores a long-running and established pattern of domestic-related violence and associated misconduct. He has repeatedly broken no-contact orders towards his wife, who he has at various times pushed, grabbed, punched (one time in the face) and head-butted. As a result, SSgt [redacted] received an LOR/UIF, two Article 15 actions, a vacation action and a civilian conviction; in addition, he has received two (deserved) referral “3” EPRs. While his misconduct largely occurred off-duty, it had significant negative effects on the mission.⁵ Of

³ If 5 AF/CC directs the separation of SSgt [redacted] and does not offer P&R IAW AFI 36-3208, Chapter 7, 5 AF/CC must withhold the approved discharge and send his recommendation regarding lengthy service probation through PACAF/DP to HQ AFMPC/DPMARS2, for review and further processing.

⁴ IAW SAFO 240.8, 17 Dec 99, paragraph 3b(8) the Director, Air Force Review Boards Agency (SAF/MRB, Mr. [redacted]) is delegated the authority to act for the SAF in enlisted lengthy service probation cases.

⁵ Among others, three separate 18 OSS commanders at Kadena AB (Lt Col [redacted] Lt Col [redacted] and Lt Col [redacted]) have been compelled to devote substantial time and effort to SSgt

importance, his 3 Sep 04 conduct while on leave in Alaska and en route to Iraq resulted in his confinement in a local jail and compelled his unit to send a short-notice replacement (SSgt: [REDACTED]) in his stead.⁶ In short, discharge under this provision in both lawful and well-warranted.

b. Characterization of Discharge.

(1) **Types of Service Characterization.** There are three types of discharges that may be issued to SSgt: [REDACTED]. They are:

(a) **Honorable.** AFI 36-3208, paragraph 1.18.1, states that an honorable discharge should be issued when the airman's service has generally met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate.

(b) **General.** AFI 36-3208, paragraph 1.18.2, states that a general discharge should be issued when the airman's service has been honest and faithful. This characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.

(c) **Under Other Than Honorable Conditions (UOTHC).** AFI 36-3208, paragraph 1.18.3, provides that an Airman's service may be characterized as UOTHC only if the member is given an opportunity for a hearing by an administrative discharge board or requests discharge in lieu of trial by court-martial. Characterization of service as UOTHC may be appropriate when the reason for separation is based on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of Airman. Examples of such behavior, acts, or omissions include, but are not limited to:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior – subordinate relationships.
- Acts or omissions that endanger the security of the United States.
- Acts or omissions that endanger the health and welfare of other members of the Air Force.
- *Deliberate acts or omissions that seriously endanger the health and safety of other persons* (AFI 36-3208, paragraph 1.18.3). (Emphasis added.)

(2) **Discussion.** A UOTHC discharge can be viewed as a potential outcome here. Given the above criteria, SSgt: [REDACTED] conduct appears to subject him to a UOTHC discharge in light of the serious and recurring nature of his misconduct and its effect on mission readiness and execution (i.e., his missing a movement to deploy). Although only this

[REDACTED] situation as have Family Advocacy personnel at both Kadena AB and Eielson AFB (SSgt: [REDACTED] previous base of assignment).

⁶ See Tab 1-3, LOR, 6 Oct 04, paragraph 3.

enlistment is subject to characterization in this action, it is clear that SSgt: [redacted] has a lengthy record of excellent on-duty performance that is fatally marred by his conduct towards his family and wife in particular. On balance, we believe acceptance of the conditional waiver with a service characterization of general to be an appropriate disposition here.

c. **Probation and Rehabilitation (P&R)/Lengthy Service Consideration.** IAW AFI 36-3208, paragraph 5.2.1, Airmen must be formally counseled concerning their deficiencies and given an opportunity to overcome them before a commander recommends discharge for misconduct. IAW AFI 36-3208, paragraph 6.35, Airmen who have completed at least 16 but less than 20 years' active service credible toward retirement are entitled to special consideration for probation upon their request.⁷ 18 OSS/CC reviewed and evaluated SSgt: [redacted] records, which document the unit's attempt to correct his behavior. In light of the recurring and significant nature of SSgt: [redacted] misconduct, 18 OSS/CC strongly advocates against P&R for this Airman; we wholeheartedly agree. SSgt: [redacted] was given multiple chances to correct his behavior over the course of this enlistment and displayed no intention of changing course. In the reprimand portion of his 7 May 04, Article 15 (Tab 1-2), (then) TSgt: [redacted] was given a very clear warning from the previous 18 OSS/CC as to his tenuous position in the AF and the repercussions of additional misconduct.⁸ His response in turn was to break the no contact order on multiple occasions, threaten his wife and subsequently cap it off with the above-noted altercation in Alaska.⁹ In conjunction with other conduct noted in the file (Tab 2)—some of which is not listed as a basis for this

⁷ IAW AFI 36-3208, paragraph 6.38, lengthy service review cases may be disposed of in one of four ways:

- An offer of probation for the time the Airman needs to get minimum retirement eligibility according to AFI 36-3202.
- An offer of P&R for a specific period of time IAW AFI 36-3208, Chapter 7.
- Concurrence in the execution of the discharge.
- Other action as directed by the Office of the Secretary of the Air Force.

⁸ The reprimand reads as follows:

You are hereby reprimanded. Domestic violence is a serious crime, and this is your second Article 15 for substantially the same conduct. While you have been a good performer on-duty, you have proven to be an abysmal failure in your home life with two subsequent wives. Your conduct also necessitated an enormous waste of command time dealing with this situation. You have demonstrated an inability to control your anger or to tell the truth regarding activities in your home. You need to know that I seriously considered a hard bust to Staff Sergeant. Whether or not you remain in the service, this aspect of your life needs serious attention. You will come to grips with your problems and conduct yourself, both on- and off-duty, as befits a noncommissioned officer and member of the United States Air Force.

⁹ One threat to his wife is particularly revealing as to his judgment and character. In his 10 Aug 04, e-mail to his wife: [redacted] (Tab 1-3), (then) TSgt: [redacted] wrote as follows:

Look Bitch,

If you even think about telling my command that I broke the no contact order, I will ruin you. That stays our little secret or you will get the wrath. You already cost me one stripe, don't even think about costing me another one. You have been warned.

[redacted]

action—it is clear that SSgt: [redacted] does not merit further chances via P&R or lengthy service probation.^{10,11} Nor should his command be required to further carry (“limp”) him along to 11 Aug 08—his 20-year retirement eligible date.

6. Commander’s Options. As the Special Court-Martial Convening Authority, you may:

a. Direct that this action be discontinued based upon a finding that the recommendation for discharge is not supported by the evidence.

b. Refuse to accept the offered conditional waiver and direct that an administrative discharge board be convened.

c. Forward this discharge package to 5 AF/CC with your recommendation that he accept the conditional waiver, separate SSgt: [redacted] with an honorable discharge with or without suspension for probation and rehabilitation, and make a recommendation for or against lengthy service probation.

¹⁰ This other information may not be used in determining whether a basis for discharge exists. It may however, be considered in determining the character of the discharge and whether P&R or lengthy service probation should be offered.

¹¹ Tab 2 includes a chronological listing of Family Advocacy actions in this case along with associated civil court actions. The conduct in Tab 2 makes clear that SSgt: [redacted] situation extends to his most recent ex-wife ([redacted]), ex-wife ([redacted]), daughter ([redacted] a/ka/a: [redacted]) and stepchildren ([redacted]), and is not limited or situation-specific with respect to his most recent ex-wife, [redacted] (Note that SSgt: [redacted] has one other daughter—[redacted] age 17, who lives in Tacoma, WA—who is not reflected in any of the actions.) It includes:

- 26 Aug 01—spanking with paddle of daughter [redacted] (age 9) for kissing a boy—spanking left visible bruises three day later. Incident occurred at Eielson AB.
- 30 Aug 01—[redacted] sworn submission in her filing for a protective order which was granted by the court. It reads as follows:

24 Aug 01. During a weekend visit with her father, [redacted] was hit 3 times with a paddle on her bottom, leaving considerable bruising [sic] which were very visible when I picked her up from his home 2 days later. At that time I reported it to officials and Bassett Army Hospital that she had been hit with an object. Since our divorce, my 8 year-old child have [sic] been verbally abused by [redacted], [redacted] continues to be mentally abused by her father. Before our divorce was final, while still in our home, my ex-husband tried to choke me, and kicked and stepped on my legs because I would not give him the phone to call his girlfriend who is now his wife.
- 26 Dec 01—mutual minor affray with wife, [redacted]. Incident occurred at Eielson AFB.
- 7 Nov 02—physical abuse of wife [redacted] (part of basis for action) as well as emotional maltreatment of stepson [redacted], age 10, which appeared to include stepson [redacted], age 15, as well.
- Dec 03-Feb 04—multiple incidents of spousal abuse as reported by stepchildren and wife, [redacted]. Note that the 26 Feb 04 was documented by command action (Tab J-2).

d. Forward this discharge package to 5 AF/CC with your recommendation that he accept the conditional waiver, separate SSgt: [redacted]; with a general discharge with or without suspension for probation and rehabilitation, and make a recommendation for or against lengthy service probation.

7. **Recommendation.** I recommend you forward this discharge package to 5 AF/CC with the recommendation that he accept the conditional waiver, separate SSgt: [redacted] with a general discharge without suspension for probation and rehabilitation, and recommend that lengthy service probation not be offered. Should you concur, a proposed memorandum to effect such action is attached.

[redacted signature box]

Chief, Adverse Actions, 18th Wing

I concur.

[redacted signature box]

Staff Judge Advocate, 18th Wing

Attachments:

1. Notification Memorandum w/atchs
2. Other Derogatory Data (Family Advocacy Records and civil court actions)
3. Airman's Receipt of Notification Memorandum
4. Airman's Response
5. EPRs



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

3 MAR 05

MEMORANDUM FOR SSGT:.....

FROM: 18 OSS/CC

SUBJECT: Notification Memorandum—Board hearing

1. I am recommending your discharge from the United States Air Force for Misconduct: A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My specific reasons for this action are as follows:

a. Between 1 Jul 02 and 31 Jul 02, you assaulted your wife by pushing down on her head with your forearm.

b. On 4 Nov 02, you assaulted your wife again by grabbing her hair, holding her head down and punching the back of her head with your fist.

c. On several occasions between 15 Nov 02 and 20 Nov 02, you violated a lawful order to have no contact with your wife.

As a result of the above listed misconduct, you received an Article 15 on 28 Jan 03. Your punishment included a reduction to TSgt, forfeiture of \$500 pay per month for two months and a reprimand (Tab 1-1).

d. On 26 Feb 04, you head-butted and pushed your wife. As a result, you received an Article 15 on 7 May 04. Your punishment included a suspended reduction to SSgt, a 60-day restriction and a reprimand (Tab 1-2).

e. On several occasions between 12 Mar 04 and 1 Jun 04, you violated a lawful order to have no contact with your wife. As a result, you received a Letter of Reprimand (LOR) on 6 Oct 04 and an Unfavorable Information File (UIF) was established (Tab 1-3).

f. On 3 Sep 04, in Anchorage, AK, you were disorderly by yelling at your wife. As a result, the suspended portion of your nonjudicial punishment was vacated on 27 Oct 04 and you received a reduction to SSgt. Additionally, as a result of your misconduct, you missed your scheduled deployment and another member of the squadron was compelled to hurriedly pack his bags and deploy to fill the gap you caused. (Tabs 1-3, 1-4).

g. On 3 Sep 04, in Anchorage, AK, you assaulted your wife by punching her in the face. As a result, on 14 Dec 04, a judgment was entered against you for domestic violence assault in the District Court for the State of Alaska, at Anchorage. The imposition of sentence was suspended and you were placed on probation for a period of one year, subject to the following orders and conditions: a \$500 fine plus a \$50 surcharge, to make restitution, commit no jailable offenses during the period of probation, complete a domestic violence intervention program, and to have no contact with Ms. [REDACTED]. (Tab 1-5).

3. This action could result in your separation with an under other than honorable conditions (UOTHC) discharge. I am recommending that you receive a UOTHC discharge. The commander exercising special court-martial jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, then you will be ineligible for reenlistment in the United States Air Force and will probably be denied reenlistment in any component of the armed forces, and any special pay, bonuses, or education assistance funds may be subjected to recoupment.

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 on 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 the Physical Examination Section, 18th Medical Group, Kadena AB, Japan at 1520 hrs on 3 MAR 05 for the examination.

6. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Capt [REDACTED] at the Area Defense Counsel at Building 1460 on 4 MAR 05 at 0900 hours. 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 AFI 51-201, *Administration of Military Justice*. In addition to military counsel, you have the right to employ civilian counsel. The Military Component 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 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. Also, if you request a board and you

fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

8. Under AFI 36-3208, paragraph 6.35, Airmen who have completed 16 but less than 20 years active service creditable toward retirement at the time discharge action starts are entitled to special consideration for probation upon their request. They are not discharged until their cases have been referred to HQ AFMPC/ DPMARS2 for further review according to procedures set forth in the AFI. Accordingly, if this discharge recommendation results in an approved discharge, you may request that it be reviewed in the Office of the Secretary of the Air Force prior to execution.

9. Any personal information that you furnish in rebuttal to this discharge action will be governed by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the Area Defense Counsel's office.

10. If you received advanced educational assistance, special pay, or bonuses, and have not completed the period of active duty you agreed to serve, you may be subject to recoupment.

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



Commander, 18th Operations Support Squadron

Attachments:

1. Supporting Documents

- 1-1. Article 15, 14 Jan 02
- 1-2. Article 15, 3 May 04
- 1-3. LOR/UIF, 6 Oct 04
- 1-4. Vacation Action, 21 Oct 04
- 1-5. Civilian Judgment, 14 Dec 04

2. Receipt of Notification Letter