

**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 <b>A1C</b>	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	<b>X</b>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
					X
					X
					X
					X

ISSUES <b>A94.05</b>	INDEX NUMBER <b>A67.30</b>	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		<b>1</b> ORDER APPOINTING THE BOARD
		<b>2</b> APPLICATION FOR REVIEW OF DISCHARGE
		<b>3</b> LETTER OF NOTIFICATION
		<b>4</b> 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 <b>08 Feb 2007</b>	CASE NUMBER <b>FD-2006-00231</b>
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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.

<b>INDORSEMENT</b>	<b>DATE: 2/12/2007</b>
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-2006-00231**

**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 and based on one isolated incident in 138 months of service. The records indicated the applicant received a Special Court Martial for misconduct. Applicant was found guilty of unlawfully obtaining and observing a highlighted Promotion Fitness Examination (PFE) study booklet reflecting actual test material and theft of a PFE. He was sentenced to confinement for 45 days, forfeiture of \$100.00 pay for six months, and reduction in grade to Airman First Class. 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

(Former A1C) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF McChord AFB, WA on 30 Sep 94 UP AFR 39-10, para 5-49c (Misconduct - Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 5 Jun 61. Enlmt Age: 21 2/12. Disch Age: 33 3/12. Educ: HS DIPL. AFQT: N/A. A-79, E-90, G-99, M-78. PAFSC: X1T251 - Aircrew Pararescue Journeyman. DAS: 26 Feb 93.

b. Prior Sv: (1) AFRes 1 Sep 82 - 30 Mar 83 (7 months 0 days) (Inactive).

(2) Enlisted as A1C 31 Mar 83 for 4 yrs. Extended 3 Jul 84 for 4 months. Reenlisted as SrA 31 Mar 86 for 6 yrs. Extended 18 Jul 90 for 4 months. Svd: 9 Yrs 8 Mos 3 Days, all AMS. SrA - 31 Jul 85. SSgt - 1 Sep 92. APRs: 9,9,9,9,9,9. EPRs: 4,3,5.

ART 15: (1) 7 Jun 88, Elmendorf AFB, AK - Article 111. You did, on or about 19 May 88, on Second and Lemmon Streets, operate a vehicle, to wit: a pickup truck 1983 Chevrolet, while drunk. Forfeiture of \$250.00 pay for one month. (No appeal) (No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 4 Dec 92 for 6 yrs. Svd: 01 Yrs 09 Mo 27 Das, of which AMS is 01 Yrs 08 Months 20 Days (excludes 1 month 7 days lost time).

b. Grade Status: A1C - 24 Jun 94 (SPCMO#12, 24 Jun 94).

c. Time Lost: 25 May 94 thru 30 Jun 94 (1 month 7 days).

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial Order No.12 - 24 Jun 94

CHARGE I: Article 92. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Kadena AB, Japan, on or about 2 Feb 94, violate a lawful general regulation, to wit: paragraph 22c, AFR 30-17, dated 11 Apr 91, by wrongfully and unlawfully obtaining and observing a highlighted Promotion Fitness Examination study booklet reflecting actual test material. Plea:

Guilty. Finding: Guilty.

CHARGE II: Article 121. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Kadena AB, Japan, on or about 2 Feb 94, steal a Promotion Fitness Examination study booklet, of a value less than \$100.00, the property of SSgt [redacted].  
 Plea: Guilty. Finding: Guilty. Sentence adjudged on 25 May 94: Confinement for 45 days, forfeiture of \$100.00 pay per month for six months and reduction to E-3.

g. Record of SV: 4 Dec 91 - 3 Dec 92 Kirtland AFB 4 (Annual)  
 4 Dec 92 - 3 Dec 93 Kadena AB 4 (Annual)

h. Awards & Decs: AFCM W/2 OLCs, AFAM W/3 OLCs, AFGCM W/2 OLCs, NCOPMER W/1 OLC, CRM W/1 OLC, SAEMR, NDSM, AFOSLTR W/2 OLCs, AFTR, AFLSAR W/1 OLC, AFOUA W/1 OLC.

i. Stmt of Sv: TMS: (11) Yrs (11) Mos (23) Das  
 TAMS: (11) Yrs (04) Mos (24) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 12 Jun 06.  
 (Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incident in 138 months of exemplary service. With no other adverse action (sic). I would also request reinstatement of rank to SSgt/E-5.

ATCH  
 None.

14AUG06/ia

15 JULY 94

MEMORANDUM FOR A1C [REDACTED], 320 STS (AFSOC), KADENA AB,  
JAPAN

FROM: 320 STS/CC  
Unit 5248  
APO AP 96368-5248

SUBJECT: Notification Letter-Board Hearing

1. I am recommending your discharge from the United States Air Force for Commission of a Serious Offense under the provisions of AFR 39-10, paragraph 5-49c. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are: On or about 2 Feb 94, you violated a lawful general regulation by wrongfully and unlawfully obtaining and observing a highlighted Promotion Fitness Examination study booklet reflecting actual test material. Additionally, on or about 2 Feb 94, you stole that member's Promotion Fitness Examination study booklet. As a result, you were convicted by Special Court-Martial on 25 May 94. Punishment consisted of confinement for 45 days, forfeiture of \$100.00 pay per month for six months and reduction to A1C (Tab 1-1).

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that your service be characterized as general. 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 have previously been scheduled for a medical examination on 17 Apr 94 at the Physical Examinations Section, 18th Medical Group, Kadena AB, Japan.

6. Military legal counsel CAPT [redacted] has been obtained to assist you. An appointment has been scheduled for you to consult (him/her) on 18 July, 1030 at the Area Defense Counsel at Building 1460. 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 2. A copy of AFR 39-10 is available for your use in the orderly room.

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

[redacted signature]  
Commander, 320th Special Tactics Squadron

Attachments:

1. 24 Jun 94, Special Court-Martial Order; 23 Feb 94, Verbal Counseling
2. Airman's Acknowledgment
3. EPRs/APRs