

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 AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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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 A92.21	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 HE	

HEARING DATE 01 Mar 2007	CASE NUMBER FD-2006-00375	
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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.

INDORSEMENT	DATE: 3/1/2007
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-2006-00375

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 evidence of record nor that provided by the applicant provides a sufficient basis in clemency for a change of discharge.

ISSUE:

The applicant's issues are listed in the attached brief.

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 did not present any evidence which the DRB opined that would 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 Keesler AFB, MS on 5 Apr 99 UP SPCMO No.3 (Conviction by Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Jul 77. Enlmt Age: 17 5/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-46, E-54, G-46, M-41. PAFSC: 3P051 - Law Enforcement Journeyman. DAS: Unknown.

b. Prior Sv: (1) AFRes 12 Dec 94 - 13 Jun 95 (6 months 2 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 14 Jun 95 for 4 yrs. Extended 17 Jul 96 for 6 months. Svd: 03 Yrs 00 Mo 23 Das, of which AMS is 02 Yrs 11 Mos 05 Das (excludes 1 month 18 days lost time).

b. Grade Status: AB - 18 May 98 (SPCMO No.3, 19 Jun 98)
A1C - 14 Oct 96
Amn - Unknown

c. Time Lost: 18 May 98 thru 6 Jul 98 (1 month 18 days).

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court-Martial Order No.3 - 19 Jun 98

CHARGE I: Article 86. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at Aviano AB, Italy, on or about 14 Mar 98, without authority, fail to go at the time prescribed to his appointed place of duty, to wit: Building 901, Guardmount. Plea: Guilty. Finding: Guilty.

Specification 2: Did, at Aviano AB, Italy, on or about 14 Mar 98, without authority, go from his appointed place of duty, to wit: Guardmount. Plea: Guilty. Finding: Guilty.

Specification 3: Did, at Aviano AB, Italy, on or about 15 Mar 98, without authority, fail to go at the time prescribed to his appointed place of duty, to wit: Building 901, Guardmount. Plea: Guilty. Finding: Guilty.

Specification 4: Did, at Aviano AB, Italy, on or about 17 Mar 98, without authority, fail to go at the time prescribed to his appointed place of duty, to wit: Building 1135. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 89. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at Aviano AB, Italy, on or about 18 Mar 98, behave himself with disrespect toward Captain [redacted] his superior commissioned officer, then known by the said A1C [redacted] to be his superior commissioned officer, by spraying water in Captain [redacted] face and saying to him "Fuck you" and "You are all racist motherfuckers," (amended after arraignment to include the words, "You are all racist motherfuckers" merged from Charge II, Specification II) or words to that effect. Plea: Guilty. Finding: Guilty.

Specification II: Did, at Aviano AB, Italy, on or about 18 Mar 98, behave himself with disrespect toward Captain [redacted] his superior commissioned officer, the known by the said [redacted] to be his superior commissioned officer, by saying to him, "You are all racist motherfuckers," or words to that effect. Plea: Guilty. Finding: Merged with Charge II, Specification 1.

CHARGE III: Article 91. Plea: Guilty. Finding: Guilty.

Specification: Did, at Aviano AB, Italy, on or about 18 Mar 98, was disrespectful in language toward SMSgt [redacted], U.S. Air Force and MSgt [redacted], U.S. Air Force, noncommissioned officers, then known by the accused to be superior noncommissioned officers, who were then in the execution of their office, by saying to them, "You all are racist motherfuckers," or words to that effect. Plea: Guilty. Finding: Guilty.

CHARGE IV: Article 108. Plea: Guilty. Finding: Guilty.

Specification: Did, at Aviano AB, Italy, on or about 18 Mar 98, without proper authority, willfully destroy by knocking to the floor two pictures, each of a value of less than \$100.00, military property of the United States. Plea: Guilty. Finding: Guilty. Sentence adjudged on 18 May 98: Bad conduct discharge, confinement for 60 days, forfeiture of \$617.00 pay per month for 2 months, and reduction to E-1.

g. Record of SV: 14 Jun 95 - 15 Jul 97 Aviano AB 4 (HAF Dir)

h. Awards & Decs: AFTR, NDSM, NATOM, AFOSLTR.

i. Stmt of Sv: TMS: (03) Yrs (05) Mos (07) Das
TAMS: (02) Yrs (11) Mos (05) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 08 Sep 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. 31 FW/CC Ltr, Required Excess Leave.
3. Special Court Martial No.3, 19 Jun 98.
4. Request for Appellate Defense Counsel.
5. AF Form 286A.
6. DD Form 214.
7. DD Form 4.
8. AF Form 1411.

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To Whom It May Concern:

I, [REDACTED] have recently decided to request an upgrade of my discharge to honorable. My reasons for doing so are based on a number of facts. Just as eight years ago I really don't believe in making excuses for myself even if I do feel like the rules for deciding my punishment were unjust. What I do still believe in, just like before, is fairness and that is what I'm banking on to upgrade my discharge.

I somewhat understand what I believe is normally required in these type of proceedings, but I want to go a different route. I could get family members to protest in written form why they think I deserve a discharge but that is like cheating because family will do or say just about anything to improve their relative's wellbeing. I could try to get statements from government officials, pastors, teachers, co-workers, and other assumed trustworthy professionals but I have to be honest and say that those people really don't know enough about me to pass accurate judgment.

I don't honestly know whether I deserve an upgrade and I respect and understand that those given that authority should be left with that decision. What I will do is tell you why I feel I should be given a fair and equal hearing.

1. I did serve my country for three whole years.
2. Since 98', which is when I was discharged, I have worked and probably paid more taxes than the average citizen within that timeframe.
3. I've remained out of trouble with the law during all that time and I have a clean criminal record to show for it.
4. I have paid thousands of dollars of my own hard earned cash to federal universities and other public schools of higher learning in order to enable myself to be a more productive citizen.

Now that may not seem like a lot to some people but I know its a lot more than what I've seem some of these so-called citizens done and they get grants, loans, and other benefits to do whatever they feel like and they have not done the first thing to earn it.

What I feel that I did wrong was refuse to be counseled during the time of my procedures for punishment before I was court-martialed. But I took my punishment like a soldier without bringing any of my comrades down. I served my time in military confinement, I paid my forfeitures, I worked fulltime for an extra couple of months even after my rank was taken, and I've legally survived in this country without access to any real veteran benefits due to the bad-conduct discharge. The other thing I felt that I did wrong was I did not serve the time that I had sworn in to serve back in 95' when I enlisted. So I am willing to consider serving my country in a reserved role as long as the profession truthfully helps deserving people and that it compatible with my moral beliefs and I feel that our military should have some kind of position in my area that fits those requirements. So what I am saying is that, if it is necessary, I would like to finish my term as a reserve, serving my area in order to earn my upgrade and good name. I hope that this letter finds those who have been given the authority to decide over my case and I wish that it serves its purpose.

FD2006-00375

Sincerely,

P.S. I will not be able to appear before a hearing not out of disrespect, but because of moral and professional obligations.

FD 2006-00375

spraying water in Captain [redacted] face and saying to him "Fuck you" and "You are all racist motherfuckers," (amended after arraignment to include the words, "You are all racist motherfuckers" merged from Charge II, Specification II) or words to that effect.
Plea: G. Finding: G.

Specification II: Did, at Aviano Air Base, Italy, on or about 18 March 1998, behave himself with disrespect toward Captain [redacted] his superior commissioned officer, then known by the said Airman First Class [redacted] to be his superior commissioned officer, by saying to him "You are all racist motherfuckers." or words to that effect. Plea: G. Finding: Merged with Charge II, Specification I.

CHARGE III: Article 91 Plea: G. Finding: G.

Specification: Did, at Aviano Air Base, Italy, on or about 18 March 1998, was disrespectful in language toward Senior Master Sergeant [redacted] U.S. Air Force and Master Sergeant [redacted] U.S. Air Force, noncommissioned officers, then known by the accused to be superior noncommissioned officers, who were then in the execution of their office, by saying to them, "You all are racist motherfuckers," or words to that effect. Plea G. Finding G.

CHARGE IV: Article 108 Plea: G. Finding: G.

Specification: Did, at Aviano Air Base, Italy, on or about 18 March 1998, without proper authority, willfully destroy by knocking to the floor two pictures, each of a value of less than \$100.00, military property of the United States. Plea G. Finding G.

SENTENCE

Sentence adjudged on 18 May 1998: Bad conduct discharge, confinement for 60 days, forfeiture of \$617.00 pay per month for 2 months, and reduction to E-1.

ACTION

In the case of AIRMAN FIRST CLASS [redacted] United States Air Force, 31st Security Forces Squadron, only so much of the sentence as provides for a bad conduct discharge, confinement for 60 days, forfeiture of \$617.00 pay per month for two months, and