

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE AMN	AFSN/SSAN ██████████
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
██████████					X
██████████					X
██████████					X
██████████					X
██████████					X

ISSUES A95.00	INDEX NUMBER A67.10	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	

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

REMARKS
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.

SIGNATURE OF RECORDER ██	SIGNATURE OF BOARD PRESIDENT ██
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INDORSEMENT	DATE: 12 FEB 03
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TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0349

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 the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The board finds that the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant had received a Letter of Admonishment for failure to obey a lawful order; a Letter of Counseling for failure to go; a Letter of Reprimand for being derelict in the performance of his duties; and an Article 15 for using his government computer for accessing pornography. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 02 MAR 01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 06 Mar 77. Enlmt Age: 20 2/12. Disch Age: 23 11/12. Educ: HS DIPL. AFQT: N/A. A-95, E-50, G-72, M-33. PAFSC: 1W031 - Weather Apprentice. DAS: 24 Aug 00.

b. Prior Sv: (1) AFRes 19 May 97 - 13 Jan 98 (7 months 26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 14 Jan 98 for 4 yrs. Svd: 3 Yrs 1 Mo 19 Das, all AMS.

b. Grade Status: AMN - 4 Jan 01 (Article 15, 4 Jan 01)
A1C - 14 May 99
AMN - (EPR Indicates): 14 Jan 98-13 Sep 99

c. Time Lost: None.

d. Art 15's: (1) 4 Jan 01, Laughlin AFB, TX - Article 92. You did, on or about 25 Nov 00, violate a lawful general regulation, to wit: Air Force Instruction 33-129, Transmission of Information via the Internet, paragraph 6.1.3, dated 1 Aug 99, by wrongfully accessing obscene material on a government-provided computer, to wit: pornography. Reduction to the grade of Airman, and 10 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 1 DEC 00 - Dereliction of duty.
LOC, 9 NOV 00 - Failure to go.
LOA, 7 NOV 00 - Failure to obey a lawful order.

f. CM: None.

g. Record of SV: 14 Jan 98 - 13 Sep 99 Spandahlem AB 2 (Initial) REF
14 Jan 99 - 15 Mar 00 Spandahlem AB 4 (Cmdr Dir)
16 Mar 00 - 01 Aug 00 Spandahlem AB 3 (CRO)

(Discharged from Laughlin AFB)

h. Awards & Decs: AFTR, AFOUA W/1 DEV.

i. Stmt of Sv: TMS: (3) Yrs (9) Mos (14) Das
TAMS: (3) Yrs (1) Mo (19) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Aug 02.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
None.

21Nov02/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

14 February 2001

MEMORANDUM FOR 47 FTW/CC

FROM: 47 FTW/JA

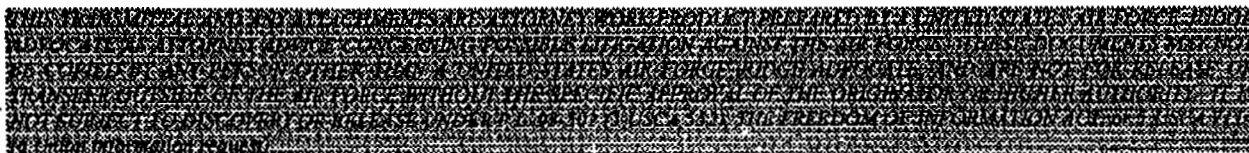
SUBJECT: Legal Review - Administrative Discharge Action [REDACTED]
[REDACTED], 47th Operations Support Squadron

1. **SUMMARY:** On 2 February 2001, [REDACTED] Commander, 47th Operations Support Squadron, initiated involuntary administrative discharge action against Airman [REDACTED] under AFI 36-3208, paragraph 5.49, minor disciplinary infractions. He recommends an Under Honorable Conditions (General) discharge. [REDACTED] is not entitled to an administrative discharge board, but he has submitted matters on his behalf. I have reviewed the case file and find it legally sufficient. I recommend that you sign the proposed memorandum at Tab 1, separating [REDACTED] from the United States Air Force with a General discharge, without probation and rehabilitation.

2. **BASIS FOR ACTION:** The basis for this action is articulated in the Notification Memorandum to [REDACTED]. [REDACTED] misconduct includes wrongfully accessing obscene pornographic material on a government computer, being derelict in his duties by not updating any of the aircrew briefing terminals to include checking the status of the newest Military Weather Advisory, failing to obey a lawful order to complete his Career Development Course (CDC) within a thirty-day timeline, and failing to go to his appointed place of duty by being forty minutes late for work.

3. **PERSONAL DATA:** [REDACTED] is almost 24 years old. He has three years and one month of active duty service with a TAFMSD of 14 January 1998. He has three enlisted performance reports; one with an overall rating of 3, one with an overall rating of 4, and one referral. He is entitled to wear the Air Force Training Ribbon and the Air Force Outstanding Unit Award with one Oak Leaf Cluster.

4. **SUMMARY OF MATTERS SUBMITTED BY [REDACTED]:** [REDACTED] has submitted a statement for your consideration and requests retention, or alternatively, if you decide to discharge him, that you characterize his service as Honorable. [REDACTED] states that he felt unchallenged by his job, and that he was unable to occupy all of his time constructively. He states that if he had been "shown the path to success rather than having to walk the path toward failure alone [he feels he] could have and still can be the type of airman that the Air Force is known to produce." He has submitted a certificate of appreciation, and a letter of reference from his current supervisor in the Enlisted Dormitory Office.



5. CHARACTERIZATION: [REDACTED] has reviewed [REDACTED] service record and the matters [REDACTED] has submitted for your consideration, and he recommends that [REDACTED] receive a General Discharge. Under AFI 36-3208, paragraph 1.18.2, if an airman's service has been honest and faithful, a General service characterization is warranted whenever significant negative aspects of the airman's conduct or duty performance outweigh the positive aspects of the airman's military record. [REDACTED] has consistently maintained a substandard level of competency. His first EPR, a referral, indicates that his "frequent negative actions clouded the few accomplishments" and that he "routinely demonstrated less than satisfactory performance." Although his second EPR lauds his "complete turnaround in appearance and attitude," his supervisor noted that the Air Force must "continue motivating this airman to stay on the right track." His third EPR at Spangdahlem continues to annotate his substandard performance. He possessed "adequate technical knowledge," while "lack[ing] consistency of peers", as well as "need[ing] more motivation and attention to detail" and a continued need for mentoring. Once he arrived at Laughlin AFB, [REDACTED] lack of motivation continued, and so did the mentoring and aid offered by his unit. From 21 July 2000 (when he was issued the third volume of his CDC) until 3 November 2000, he accomplished none of the exercises in his CDC, despite numerous counselings and a direct order to do so. His disregard for his important career as a Weather Apprentice is shown in his tardiness for work, his time spent surfing pornography while at work, and in the potentially fatal misconduct of mis-reporting the weather. [REDACTED] misconduct has significantly marred his military record, thus making a General discharge appropriate. [REDACTED] however, requests that you characterize his service as Honorable. AFI 36-3208, paragraph 5.48.4, states that a member separated for misconduct may receive an Honorable discharge only if the member's record has been so meritorious that any other characterization would be clearly inappropriate. In light of [REDACTED] continued misconduct and lack of motivation, his record has not been "meritorious," and it certainly has not been so meritorious that any other characterization would be clearly inappropriate. To the contrary, as discussed above, a General discharge is appropriate in this case.

6. PROBATION AND REHABILITATION (P&R): [REDACTED] is eligible for P&R under AFI 36-3208, Chapter 7. However, AFI 36-3208, paragraph 7.2.7, states that P&R should be offered only in cases where "there seems to be a reasonable expectation of rehabilitation." In this case, [REDACTED] unit at Spangdahlem appears to have attempted to constantly mentor him, and his unit at Laughlin tried to rehabilitate him using the stepped-approach to discipline (one Letter of Counseling, one Letter of Admonishment, one Letter of Reprimand, and an Article 15), with the overall trend towards increasing his punishment. Nevertheless, [REDACTED] continues to act in ways unacceptable for an airman in the United States Air Force. Rather than accept responsibility for his own behavior, [REDACTED] posits fault with his supervisors for not having mentored him enough as a young airman, and not being shown the path to success. This does not appear to be the case, rather, [REDACTED] supervisors appear to have constantly mentored him and encouraged his success. [REDACTED] met that mentoring and encouragement with a lack of motivation in all things and mere adequacy at his job. He has not demonstrated a capacity to be rehabilitated, and his retention would be inconsistent with maintaining good order and discipline.

THIS DOCUMENT AND ANY ATTACHMENTS ARE ATTORNEY WORK PRODUCT PREPARED BY [REDACTED] FOR THE [REDACTED] AND ARE NOT TO BE DISCLOSED TO ANY PERSON OTHER THAN UNITED STATES AIR FORCE OFFICIALS AND PERSONNEL. THIS DOCUMENT IS SUBJECT TO DISCOVERY OR RELEASE UNDER E.O. 13526 (5 USC 552) AND IS NOT TO BE DISCLOSED TO THE PUBLIC OR TO THE MEDIA WITHOUT THE SPECIFIC APPROVAL OF THE [REDACTED] (AFI 36-3208, Chapter 7, Section 7.2.7).

FD 2002-0349

Therefore, as recommended by [REDACTED] discharge should not be suspended for a period of P&R.

7. **OPTIONS:** As the separation authority, you have the following options:

- a. Direct that [REDACTED] be retained;
- b. Recommend to 19 AF/CC that [REDACTED] be separated with an Honorable discharge, with or without P&R;
- c. Direct that [REDACTED] be separated with an Under Honorable Conditions (General) discharge, with or without P&R;
- d. Direct that this case be reinitiated and processed as a board hearing discharge, if you believe that an Under Other Than Honorable Conditions (UOTHC) discharge is appropriate.

8. **RECOMMENDATION:** Approve [REDACTED] recommendation and separate [REDACTED] with a General discharge, without P&R, by signing the proposed memorandum at Tab 1.

[REDACTED]

I concur.

[REDACTED]

Attachments:

- 1. Proposed letter
- 2. Case File

THIS DOCUMENT CONTAINS UNCLASSIFIED INFORMATION AND IS NOT TO BE DISTRIBUTED OUTSIDE THE AIR FORCE WITHOUT THE SPECIFIC APPROVAL OF THE AIR FORCE. THIS DOCUMENT IS NOT SUBJECT TO DISCOVERY OR RELEASE UNDER THE FREEDOM OF INFORMATION ACT.



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

2 February 2001

MEMORANDUM FOR AIRMAN [REDACTED]

FROM: 47 OSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 25 November 2000, you wrongfully accessed obscene pornographic material on a government computer. For this misconduct you received nonjudicial punishment under Article 15, UCMJ, dated 4 January 2001, and an unfavorable information file.

b. On 26 November 2000, you were derelict in your duties. For this misconduct, you received a Letter of Reprimand, dated 1 December 2000.

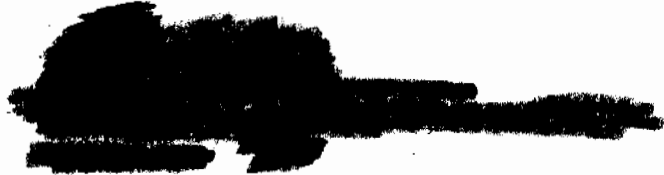
c. On 31 October 2000, you failed to obey a lawful order. For this misconduct, you received a Letter of Admonishment, dated 7 November 2000.

d. On 30 October 2000, you failed to go to your official place of duty. For this misconduct, you received Letter of Counseling, dated 9 November 2000.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] Area Defense Counsel, Goodfellow AFB, TX at DSN 477-5070, on 5 February 2001 at 0900. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 7 February 2001, unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.
7. You have been scheduled for a medical examination. You must report to the Physical Exams Section, 47th Medical Group at 5 February 2001 on 0800 for the examination.
8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use in the unit orderly room.



Attachments:

1. Record of Nonjudicial Punishment under Article 15, UCMJ, dated 4 January 2001
2. Letter of Reprimand, dated 1 December 2000
3. Letter of Admonishment, dated 7 November 2000
4. Letter of Counseling, dated 9 November 2000