

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AMN	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
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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%; padding: 2px;">YES</td> <td style="width: 50%; padding: 2px;">NO</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td> </tr> </table>	YES	NO	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
YES	NO					
<input type="checkbox"/>	<input checked="" type="checkbox"/>					

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A94.05	INDEX NUMBER A67.90	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 2px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; text-align: center; padding: 2px;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center; padding: 2px;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center; padding: 2px;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center; padding: 2px;">4</td> <td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 2px;">TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </tbody> </table>	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
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HEARING DATE 10 APR 03	CASE NUMBER FD2002-0438																	

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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 [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 10 APR 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

FD02-0438

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 neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

ISSUE: Applicant contends that his discharge was too harsh and would like for the Board to consider changing his discharge from General to Honorable. The record indicates the applicant received two Article 15's. The first one for wrongfully introducing and displaying pornographic and sexually explicit images from Internet sites using his government owned computer. The second one for failure to go. He also received seven Letters of Counseling, 5 Letters of Reprimand, and 1 Memorandum For Record for financial irresponsibility, consistently being late for work and late for training, being disrespectful and insubordinate to his supervisor, failure to obey instructions and misusing a government computer. 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 Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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

[REDACTED]

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 27 JAN 00 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Feb 78. Enlmt Age: 18 7/12. Disch Age: 21 11/12. Educ: HS DIPL. AFQT: N/A. A-69, E-42, G-37, M-41. PAFSC: 3A031 - Information Management Apprentices. DAS: 28 May 97.

b. Prior Sv: (1) AFRes 20 Sep 96 - 25 Feb 97 (5 months 6 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 Feb 97 for 4 yrs. Svd: 2 Yrs 11 Mo 2 Das, all AMS.

b. Grade Status: AMN - 13 Aug 99 (Article 15, 13 Aug 99)
AMN/A1C - (EPR Indicates): 26 Feb 97-25 Oct 98

c. Time Lost: None.

d. Art 15's: (1) 13 Aug 99, Shaw AFB, SC - Article 86. You did, on or about 4 Aug 99, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Amn, and 14 days extra duty. (No appeal) (No mitigation)

(2) 25 Jan 99, Shaw AFB, SC - Article 92. You did, at Prince Sultan Air Base, Kingdom of Saudi Arabia, on or about 31 Dec 98, violate a lawful general order, to wit: paragraph 2e, General Order Number 1, Joint Task Force-Southwest Asia, United States Central Air Forces (Forward), dated 29 Jan 97, by wrongfully introducing and displaying pornographic and sexually explicit images, to wit: images from Internet sites. You did, at Prince Sultan Air Base, Kingdom of Saudi Arabia, on or about 31 Dec 98, violate a lawful general regulation, to wit: paragraph 6.1.3, AFI 33-129, dated 1 Jan 97, by wrongfully using a government owned computer for other than official or authorized government business by displaying pornographic and sexually explicit images, to wit: images from Internet sites. Suspended reduction to AB, forfeiture of \$150.00 pay per month for 2 months, and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR, 1 DEC 99 - Misuse of a government computer & financial irresponsibility.
RIC, 8 OCT 99 - Late for duty.
LOR, 21 JUL 99 - Late for duty.
LOR, 21 JUL 99 - Late for duty.
LOR, 23 JUN 99 - Disobeying a lawful order.
LOR, 27 MAY 99 - Late for duty.
RIC, 14 APR 99 - Failure to obey instructions.
VBC, 15 MAR 99 - Disrespectful & insubordinate to supervisor.
RIC, 12 MAR 99 - Late for duty.
RIC, 12 MAR 99 - Late for training.
RIC, 10 SEP 98 - Substandard performance.
RIC, 7 JAN 98 - Consistently being late for work.
MFR, 25 NOV 98 - Financial irresponsibility.
- f. CM: None.
- g. Record of SV: 26 Feb 97 - 25 Oct 98 Shaw AFB 4 (Initial)
(Discharged from Shaw AFB)
- h. Awards & Decs: AFTR, AFOUA.
- i. Stmt of Sv: TMS: (3) Yrs (4) Mos (8) Das
TAMS: (2) Yrs (11) Mos (2) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 15 Sep 02.
(Change Discharge to Honorable)

Issue 1: In view of my military record, I would like for the Board to consider changing my discharge to Honorable from General under Honorable Conditions.

ATCH

1. AF Form 100.

21JAN03/ia

FD 2002-0438



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

MEMORANDUM FOR AMN [REDACTED]

FROM: 79 FS/CC
706 Fighting Falcon Street
Shaw AFB SC 29152-5046

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct – conduct prejudicial to good order and discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. In Dec and Jan 98, you frequently failed to report to duty at the time prescribed. For this misconduct, you received a letter of counseling (LOC) on 7 Jan 98.

b. On or about 10 Sep 98, you were derelict in the performance of your duties, in that you failed to accomplish the assigned tasks given to you in a timely manner. For this misconduct, you received a LOC on 10 Sep 98.

c. On or about 25 Nov 98, you were delinquent on your Exchange Credit Account in the sum of \$36.00, as evidenced by an AAFES Collections & Tracking memorandum, dated 25 Nov 98.

d. You did, at Prince Sultan Air Base, Kingdom of Saudi Arabia, on or about 31 Dec 98, violate a lawful general order by wrongfully introducing and displaying pornographic and sexually explicit images, from Internet sites. In addition, you did, at Prince Sultan Air Base, Kingdom of Saudi Arabia, on or about 31 Dec 98, violate a lawful general regulation, by wrongfully using a government-owned computer for other than official or authorized government business by displaying pornographic and sexually explicit images from Internet sites. For these acts of misconduct, you received an Article 15, nonjudicial punishment, dated 25 Jan 99. Punishment consisted of suspended reduction to the grade of airman basic, forfeiture of \$150.00 pay per month for 2 months, and reprimand.

e. On or about 17 Feb 99, you failed to go to your appointed place of duty at the time prescribed. For this misconduct, you received a LOC, dated 12 Mar 99.

f. On or about 12 Mar 99, you failed to report to duty at the time prescribed. For this misconduct, you received a LOC, dated 12 Mar 99.

g. On or about 15 Mar 99, you were disrespectful and insubordinate towards your supervisor. For this misconduct, you were verbally counseled by your Section Commander on 15 Mar 99.

h. On or about 14 Apr 99, you failed to obey instructions given to you by [REDACTED] to be back in the local area when your leave ends and to leave an emergency contact number prior to going on leave. For this misconduct, you received a LOC, dated 14 Apr 99.

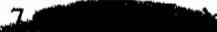
- i. On or about 26 and 27 May 99, you failed to report to duty at the time prescribed. For this misconduct, you received a letter of reprimand (LOR), dated 27 May 99.
 - j. On or about 21 and 22 Jun 99, you disobeyed lawful orders given to you by your supervisor. Furthermore, you were disrespectful towards your supervisor and made a false official statement to a commissioned officer. For these acts of misconduct, you received a LOR, dated 23 Jun 99.
 - k. On or about 7 Jul 99, you failed to report to your place of duty at the time prescribed. For this misconduct, you received a LOR, dated 21 Jul 99.
 - l. On or about 12 Jul 99, you failed to report to your place of duty at the time prescribed. For this misconduct, you received a LOR, dated 21 Jul 99.
 - m. You did, at or near Shaw AFB, SC, on or about 4 Aug 99, without authority, fail to go to your appointed place of duty at the time prescribed. For this misconduct, you received an Article 15, nonjudicial punishment, dated 13 Aug 99. Punishment consisted of reduction to the grade of Airman and 14 days extra duty.
 - n. On or about 8 Nov 99, you failed to report to your place of duty at the time prescribed. For this misconduct, you received a LOC, dated Nov 99.
 - o. On or about 10 Nov 99, you misused a government-owned computer to forward an unofficial electronic mail message to approximately 20 people. In addition, on or about 1 Dec 99, you were six months delinquent in paying your government Visa card balance in the amount of \$314.59. For these acts of misconduct, you received a LOR, dated 1 Dec 99.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial 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.
 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, 895-9530, on 7 Jan 00 at 1530 hours. 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 within three duty days after receipt of this notification memorandum, 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 must report, in uniform, to the Shaw AFB Hospital, Physical Examinations Section, on 07 Jan 00 at 0730 hours, for a medical 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 orderly room.

9. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge, if the reason is not homosexual conduct. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

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



Attachments:

1. LOC, 7 Jan 98
2. LOC, 10 Sep 98
3. AAFES Memorandum, 25 Nov 98
4. AF Form 3070, 25 Jan 99
5. LOC, 12 Mar 99
6. LOC, 12 Mar 99
7.  Memorandum, 15 Mar 99
8. LOC, 14 Apr 99
9. LOR, 27 May 99
10. LOR, 23 Jun 99
11. LOR, 21 Jul 99
12. LOR, 21 Jul 99
13. AF Form 3070, 13 Aug 99
14. LOC, 8 Nov 99
15. LOR, 1 Dec 99
16. Airman's Receipt of Acknowledgement of Receipt