

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]				
TYPE GEN	PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO						
	X						
MEMBERS SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
[REDACTED]							X
							X
							X
							X
							X
ISSUES A94.11, A94.21, A94.05		INDEX NUMBER A67.10		EXHIBITS SUBMITTED TO THE BOARD			
HEARING DATE 6 JUN 03		CASE NUMBER FD2002-000532		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 RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE							
REMARKS							
<p>Case heard at Washington, D.C.</p> <p>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.</p>							
SIGNATURE OF RECORDER [REDACTED]			SIGNATURE OF BOARD PRESIDENT [REDACTED]				
ENDORSEMENT			DATE: 4 JUN 03				
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				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-000532

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

The applicant was offered a personal appearance before the Discharge Review Board 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 the discharge.

Issues. Applicant was discharged for minor disciplinary infractions and homosexuality. The records review disclosed member made a statement she was homosexual; subsequent commander-directed inquiry disclosed she had a serious romantic relationship with another female, with whom she had been living, and that member's statements were sincere, although their timing was "suspicious." Additionally, member had two Articles 15, a vacation of suspended punishment, five Letters of Counseling, five Letters of Reprimand, and was placed on the Control Roster. Her misconduct included being late to work at least eleven times, not making her deferred payment plan payments, unacceptable duty performance, dress and appearance violations, and insubordination. When recommended for administrative discharge, the member submitted a conditional waiver of her right to a board hearing in hopes of receiving an honorable discharge. When that was denied, she submitted an unconditional waiver of her right to a board hearing, and she failed to submit statements in her own behalf. Her defense counsel further advised member did not desire retention, nor a personal hearing with the convening authority. Member now contends her discharge was improper because she infers the command only determined to discharge her less than fully honorably once she revealed her homosexuality. Applicant however does not deny that the misconduct occurred. The record very clearly documents applicant's misconduct, that her attitude toward the Air Force was "entirely negative," and that she was "happy," not embarrassed when she was removed from her unit while pending discharge. The Board could find no inequity, impropriety, or sufficiently mitigating or extenuating circumstances that would warrant an upgrade of 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**

(Former AB) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 28 Oct 98 UP AFI 36-3208, para 5.49 and 5.36.2.2 (Misconduct - Minor Disciplinary Infractions and Homosexuality). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 11 Jun 76. Enlmt Age: 19 7/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-53, E-67, G-78, M-68. PAFSC: 1N431 - Signals Intelligence Analysis Apprentice. DAS: 5 Jan 97.

b. Prior Sv: (1) AFRes 2 Feb 96 - 11 Jun 96 (4 Months 10 Days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enld as AMN 12 Jun 96 for 4 yrs. Svd: 2 Yrs 4 Mos 17 Das, all AMS.

b. Grade Status: AB - 15 Jun 98 (Vacation of Article 15, 15 Jun 98)
AMN - 01 Jun 98 (Article 15, 1 Jun 98)
A1C - 12 Apr 97

c. Time Lost: None.

d. Art 15's: (1) 30 Jun 98, Lackland AFB, TX - Article 86. You did, on or about 21 Jun 98, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$100.00. (Appeal/Withdrawn) (No mitigation)

(2) 15 Jun 98, Vacation, Lackland AFB, TX - Article 86. In that you did, on or about 2 Jun 98, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(3) 1 Jun 98, Lackland AFB, TX - Article 86. You did, on or about 17 May 98, without authority, fail to go at the time prescribed to your appointed place of duty. reduction to AMN, suspended reduction to AB, and 15 days extra duty. (Appeal/Withdrawn) (No mitigation)

e. Additional: LOC, 01 JUN 98 - Failure to have a driver's license to operate a vehicle.

LOR, 01 JUN 98 - Insubordination and using profanity to an NCO.

LOC, 31 MAY 98 - Failure to comply with dress and appearance standards.

LOC, 16 MAY 98 - Disobeying an order from a superior officer.
LOR, 16 MAY 98 - Failure to report to a scheduled training appointment.
LOC, 07 MAY 98 - Late for ergometry testing and failure to bring military ID card to the appointment.
LOR, 23 MAR 98 - Late for work and lying to an NCO.
LOR, 23 MAR 98 - Late for work.
LOC, 22 MAR 98 - Late for work.
LOR, 21 MAR 98 - Financial irresponsibility.
MFR, 17 MAR 98 - Unacceptable duty performance.

f. CM: None.

g. Record of SV: 12 Jun 96 - 19 Apr 98 Kelly AFB 3 (Initial)

(Discharged from Kelly AFB)

h. Awards & Decs: AFTR, SAEMR.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (27) Das
TAMS: (2) Yrs (4) Mos (17) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 12 Dec 02.
(Change Discharge to Honorable)

Issue 1: The discharge is improper because the issues regarding seperation (sic) occurred only when the applicants (sic) homosexuality was revealed, which was after all repercussions of misconduct actions had been served.

ATCH

None.

3 Mar 03/cr



DEPARTMENT OF THE AIR FORCE
AIR INTELLIGENCE AGENCY

23 SEP 98

MEMORANDUM FOR [REDACTED], 93 IS (AIA)

FROM: 93 IS/CC

SUBJECT: Notification Memorandum -- Board Hearing

1. I am recommending your discharge from the United States Air Force for homosexuality and minor disciplinary infractions according to AFPD 36-32 and AFI 36-3208, under the provisions of Chapter 5, Section G, paragraph 5.36.2.2 and Section H, 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 or about 6 March 1998, you made a statement declaring that you were a homosexual. You further stated you will engage in, or have the propensity to engage in, future homosexual acts.
- b. On 5 June 1998, you received an Article 15 for failing to go to your appointed place of duty.
- c. On 15 June 1998, you received a Vacation of a Suspended Nonjudicial Punishment for failing to go to your appointed place of duty.
- d. On 30 June 1998, you received an Article 15 for failing to go to your appointed place of duty.

3. This action could result in your separation from the Air Force with a service characterization of honorable or general. I am recommending that you receive a general. The commander exercising Special Court-Martial (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, and you will probably be denied enlistment in any component of the armed forces.

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 been scheduled for medical examination. You must report to the 76th Medical Squadron, Kelly AFB, TX at 0715 (time) on 24 Sep 1998.
6. Military legal counsel, , Area Defense Counsel Office, Bldg 1000, Lackland AFB, TX extension 3-2924, has been obtained to assist you. An appointment has been scheduled for you to consult him/her on 24 Sep 98 at 0930 (time). 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. 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 seven (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 on 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. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your rights to be present at the hearing.
9. Execute the attached acknowledgement and return it to me immediately.
10. 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 Squadron Orderly Room.


Lt Col, USAF
Commander

Attachments:

1. Copy of Report of Investigation
2. Article 15 dated 5 June 1998
3. Vacation of Suspended Nonjudicial Punishment dated 15 June 1998
4. Article 15 dated 30 June 1998
5. Airman's Receipt of Notification Memorandum
6. Airman's Statement