

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████		GRADE A1C	AFSN/SSAN ████████████████
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TYPE HON	PERSONAL APPEARANCE		X	RECORD REVIEW
	NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
COUNSEL				
YES	No			
	X			

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A93.23 A94.05	INDEX NUMBER A94.21	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 DATE 17 Jun 2004	CASE NUMBER FD-2004-00064
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

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.

ENDORSEMENT		DATE: 6/17/2004
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-2004-00064

GENERAL: The applicant appeals for to change the reason and authority for the discharge.

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: Change of reason and authority for discharge are denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUES:

Issue 1. Applicant was discharged for homosexual conduct after making both written and oral statements regarding same. He now notes his difficulty finding post-service employment, and his in-service depression. The records indicated the applicant had been diagnosed with an adjustment disorder with depressed mood, and subsequently with obsessive-compulsive disorder, and he had begun cognitive behavior therapy for his depression, as well as being placed on medication. Never-the-less, member made his homosexual admissions and was properly discharged for them. The DRB could not find an inequity or impropriety in the action.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for the change. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on October 1, 2000) that he understood he must serve at least 36 months of active duty and receive an Honorable discharge to receive future educational entitlements. Member served only 32 months, and so was not eligible. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant a change in his 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 change 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]
[REDACTED]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a HON Disch fr RAF Mildenhall, UK on 26 May 03 UP AFI 36-3208, para 5.36 (Homosexual Conduct). Appeals for Change in Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 28 Jan 81. Enlmt Age: 19 5/12. Disch Age: 22 3/12. Educ: HS DIPL. AFQT: N/A. A-99, E-85, G-99, M-92. PAFSC: 1A831E - Airborne Cryptologic Linguist Apprentice. DAS: 26 Sep 02.

b. Prior Sv: (1) AFRes 21 Jul 00 - 18 Sep 00 (1 month 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Sep 00 for 6 yrs. Svd: 2 Yrs 8 Mo 8 Das, all AMS.

b. Grade Status: A1C - 3 Nov 00

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 19 Sep 00 - 23 Jan 03 RAF Milenhall 5 (Initial)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (10) Mos (6) Das
TAMS: (2) Yrs (8) Mos (8) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 17 Jan 04.
(Change the Reason and Authority for Discharge)

Issue 1: I am not currently eligible to receive MGIB benefits due to my time in service and narrative reason for separation. I was instructed by the Area Defense Counsel that an honorable discharge would guarantee my eligibility for MGIB benefits. I would not have made my homosexual admission at that time, or possibly at all, had I known that I was three and a half months short of being eligible to collect MGIB benefits.

I ask you to please help me in this matter. My separation has been very

difficult. I was unemployed for months (as the economy in Portland is very poor right now). I was given a certificate of eligibility for the GI Bill from the VA last summer, only to have it revoked less than a month before classes were to begin. I cannot afford to finish college without this. I only made my homosexual admission because I was becoming severely depressed from being closeted for so long. Now I am out of a great career, and can't see how I can better my situation without a bachelor's degree, and for that the MGIB is my greatest hope.

ATCH

None.

28APR04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 100TH AIR REFUELING WING (USAFE)

FD 2004-00064

4 APR 03

MEMORANDUM FOR A1C [REDACTED]
488th INTELLIGENCE SQUADRON

FROM: 488 IS/CC

SUBJECT: Notification Memorandum – Board Entitled

1. I am recommending your discharge from the United States Air Force for Homosexual Conduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.36. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as honorable.
2. My reasons for this action is that on 6 Feb 03, you reported to Major [REDACTED] then 488 IS/CC, and made a verbal statement to him that you were a homosexual, the details of which are summarized in SMSgt [REDACTED] Memorandum for Record, dated 6 Feb 03. You also provided a written statement dated 6 Feb 03, indicating the same.
3. The commander exercising special court-martial (SPCM) convening authority jurisdiction or a higher authority will make the final decision in this matter. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. 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 behalf in addition to, or in lieu of, the board hearing.
 - e. Waive the rights. You must consult legal counsel before making a decision to waive any of your rights.
5. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult Capt [REDACTED] Area Defense Counsel, at Building 948, RAF Lakenheath, DSN 226-3608, on Friday, 4 April 2003, at 1000 hours. Instead of the appointed counsel, you may have another, if the lawyer you request is in 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.
6. 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 will also 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, or appear at the board hearing (if one was requested), your failure will constitute a waiver of the rights to a board hearing.

7. You have been scheduled for a Separations Briefing. Please report to the Port-A-Cabins behind the education center, RAF Mildenhall, DSN 238-5322 on Monday, 7 March 2003, at 0900 hours.

8. You are scheduled for a medical separations examination. You must report, with your medical records to the RAF Mildenhall, Flight Medicine located in building 830 on 7 April 2003 at 1420 hours. You must be in uniform. If you have been prescribed glasses, you must wear your glasses to the appointment.

9. 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 at the unit orderly room or the Area Defense Counsel office.


 Maj, USAF
Commander

Attachments:

Airman's receipt of notification memorandum

Memorandum from SMSgt  6 Feb 03

Memorandum from A1C  dtd 6 Feb 03

Enlisted Performance Report, 19 Sep 00 – 23 Jan 03

Permission to Proceed Letter

Records Review RIP