

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>				GRADE A1C		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>																															
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ISSUES A92.37 A01.43		INDEX NUMBER A65.00		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 20px; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>				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																
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HEARING DATE 19 May 2004		CASE NUMBER FD-2004-00065																																			
<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				SIGNATURE OF BOARD PRESIDENT																																	
TO:				FROM:																																	
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742				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 FD2004-00065
<p>GENERAL: The applicant appeals to change the reason and authority for her discharge and to change her reenlistment code.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Change of discharge reason and authority for discharge and reenlistment code are denied.</p> <p>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.</p> <p>Issues. Applicant received an honorable discharge for making a homosexual admission. The records review disclosed member made a statement she was homosexual; subsequent commander-directed inquiry disclosed her statement was credible and she had the propensity to engage in homosexual acts. Furthermore, she declined to rebut the presumption when given the opportunity to do so. When recommended for administrative discharge, the member waived her right to a board hearing, or to submit statements in her own behalf. Member now contends she made a "serious error in judgment" in making the statement, and she wants to return to military service. The Board notes that applicant remains silent on the presumption she would engage in homosexual conduct and she provided no documented evidence that her homosexual claims were false. Furthermore, she presents no evidence of an inequity or impropriety and the Board could find none, nor any mitigating or extenuating circumstances that would warrant an upgrade of the discharge.</p> <p>While the Board commends applicant on her desire to return to military service and is sympathetic to the impact of her reenlistment code, this is not a matter of equity or propriety that warrants an upgrade.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p>	

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 Moody AFB, GA on 27 Apr 99 UP AFI 36-3208, para 5.36 (Homosexual Admission). Appeals for a Change of RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 28 Jul 76. Enlmt Age: 21 6/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-89, E-71, G-55, M-53. PAFSC: 2W031 - Munitions Systems Apprentice. DAS: 10 Oct 98.

b. Prior Sv: (1) AFRes 17 Feb 98 - 16 Jun 98 (4 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 17 Jun 98 for 4 yrs. Svd: 0 Yrs 10 Mo 11 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: Memo For 347 EMS/CC, 22 Mar 99 - Homosexual Admission.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (2) Mos (1) Das
TAMS: (0) Yrs (10) Mos (11) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 20 Feb 04.
(Change RE Code, Reason and Authority for Discharge)

Issue 1: I would like the Board to consider my request to change the narrative and the re-entry code so that I would be able to correct an (sic) serious error in judgement that I demonstrated on April 27, 1999. I would like to have this changed to be able to re-enlist back into the military. I am attaching several character references to this document supporting this change and to also recruit the chance to re-join the military service. I am only requesting that the re-entry code and the narrative be changed from 2C and homosexual admission to a status that will allow me to re-enlist at the earliest

FD2004-00065

possible time frame so that I can serve my country.

ATCH

1. Five Character References.

17MAR04/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 347TH WING (ACC)
MOODY AIR FORCE BASE, GEORGIA

FD 2004-00065

13 April 1999

MEMORANDUM FOR A1C [REDACTED] 47 EMS

FROM: 347 EMS/CC

SUBJECT: Notification Memorandum - Board Hearing

1. I am recommending your discharge from the United States Air Force for homosexual conduct according to AFI 36-3208, under the provisions of paragraph 5.36 (specifically paragraph 5.36.2.2). Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. My reason for this action is that on or about 10 Feb 98, you submitted a letter to me in which you state that you have a "homosexual orientation" (Atch 1).
3. This action could result in your separation with an under other than honorable conditions discharge if the criteria in AFI 36-3208, paragraph 5.37.3 are met. I am recommending that you receive an honorable discharge. 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 will probably be denied enlistment in any component of the armed forces, and any special pay, bonus, or education assistance funds may be subjected to recoupment.
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;and,
 - 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 a medical examination. You must report to the Moody Air Force Base Hospital, Physical Exams Section, Bldg 3296, at 0730 on 23 April 1999 for the examination. This is a mandatory appointment.
6. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to contact Captain [REDACTED] in Bldg 5107, extension 3421, on 13 April 99 at 1030. Please take your copy of this Notification Memorandum and attachments with you to your appointment. 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 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, your failure will constitute a waiver of the right to the board hearing.
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. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.
10. The discharge board, or the discharge authority, will make the finding and recommendations required under 10 U.S.C. 2005(g).
11. Execute the attached acknowledgment and return it to me immediately.



Commander, 347th Equipment Maintenance Squadron

Attachments:

1. Supporting Documents, Reasons for Discharge Memorandum For Record, 22 Mar 99, (w/atch)
2. Receipt of Notification Memorandum