

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████		GRADE SRA	AFSN/SSAN ██████████			
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBER SITTING <div style="border: 1px dashed black; width: 200px; height: 100px; margin: 10px auto;"></div>		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
		X				
		X				
		X				
		X				
ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD				
A94.06 A02.17 A92.22 A39.00	A65.00	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	CASE NUMBER					
01 Jun 2004	FD-2004-00082					

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

INDORSEMENT

DATE: 6/1/2004

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-2004-00082

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) and elected to exercise this right. However, the case was considered tendered before the personal appearance.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants the requested relief.

ISSUE: Among other things, the applicant contends her discharge was inequitable because it was too harsh. The records indicated that the applicant admitted to engaging in homosexual acts. The records indicated no other infractions or misconduct by the applicant and a stellar duty history. Although the applicant elected a personal appearance, this case was a tender consideration. Tender consideration is the process of reviewing projected personal appearance DRB cases to determine if the DRB would grant the requested relief based on the record. All board members voted to grant the relief requested. Therefore, this case is considered Tendered. Because the DRB voted to grant the requested relief on the basis of harshness, it did not consider the applicant's other contentions.

CONCLUSION: The Discharge Review Board concludes that the discharge was too harsh and concludes there exists an equitable basis for upgrade of discharge. Thus, the applicant's discharge should be changed.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Minot AFB, ND on 23 Aug 89 UP AFR 39-10, para 5-35 (Homosexual Acts). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 24 Jun 68. Enlmt Age: 17 10/12. Disch Age: 21 1/12. Educ: BS. AFQT: N/A. A-67, E-56, G-57, M-45. PAFSC: 81150 - Security Specialist. DAS: 2 Mar 87.

b. Prior Sv: (1) AFRes 25 Apr 86 - 21 Sep 86 (4 months 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as 22 Sep 86 for 6 yrs. Svd: 2 Yrs 11 Mo 2 Das, all AMS.

b. Grade Status: SrA - 5 Mar 89
A1C - 5 Nov 86

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 22 Sep 86 - 21 Sep 87 Minot AFB 9 (Annual)
22 Sep 87 - 12 Jun 88 Minot AFB 9 (CRO)
13 Jun 88 - 21 Nov 88 Minot AFB 9 (CRO)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (3) Yrs (4) Mos (0) Das
TAMS: (2) Yrs (11) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 26 Apr 04.
(Change Discharge to Honorable)

Issue 1: Legal counsel was absent for my proceedings. The base's JAG representative was representing other people and she could not represent me. I had one phone conversation, about 3 minutes in length telling me to accept the military's offer, with a JAG representative from another base.

Issue 2: I feel that my discharge of a general under honorable conditions

was excessive for the crime of telling the truth.

Issue 3: My 1st, 4th, 6th, 8th, and 14th amendments rights of the U.S. Constitution were basically ignored because I chose to be honest and cooperate with OSI.

Issue 4: This discharge has eliminated the opportunity for me to pursue careers in Law Enforcement and many government contractor fields.

Issue 5: I did not join the military as a Lesbian. When I signed my enlistment papers I was 16 years old. I did not know my sexual orientation until I was 19 years of age.

Issue 6: The military has the obligation to make this gross miscarriage of justice right.

ATCH

1. Two Certifications of Training.
2. Bachelor of Arts Degree.
3. College Transcript.
4. Associate of Applied Science Degree.
5. College Transcript.
6. DD Form 214.
7. Emergency Medical Technician Certification.
8. Thirteen American Red Cross Certifications.

29APR04/ia

FD 2004-00082



DEPARTMENT OF THE AIR FORCE
857TH SECURITY POLICE GROUP (SAC)
MINOT AIR FORCE BASE, NORTH DAKOTA 58705-5000



REPLY TO
ATTN. OF: CCQ

19 Jul 89

SUBJECT: Notification Letter - Board Hearing

TO: [REDACTED]
857 SPG

1. I am recommending your discharge from the United States Air Force for homosexuality according to AFR 39-10, under the provisions of paragraph 5-35. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are that on or about 21 June 1989, you stated that you are a homosexual and that you have engaged in homosexual acts with other female active duty Air Force members on at least 65 separate occasions since October 1987.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive a general discharge. The commander exercising SPCM jurisdiction (57 AD/CC) 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.

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 a medical examination. You must report to the 857th Strategic Hospital, Physical Exams Section, at 0800 hours on 24 July 1989.


6. Military legal counsel, Captain [REDACTED] has been obtained to assist you. Her office is located in Bldg 475, Room 306, Minot AFB, ND, phone #723-3405. An appointment has been scheduled for you to consult her at her office, at 1600 hours on 19 Jul, 1989. 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 AFR

111-1. 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 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 which you submit in rebuttal is covered by the Privacy Act Statement which is explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available in the Orderly Room for your use.

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

 Major, USAF

Group Section Commander, 857 SPG

2 Atch

1a. AF Form 1168/70 21 June 1989

b. AF Form 1168/70 20 June 1989

c. AF Form 1169/70 30 May 1989

2. Airman's Acknowledgment