

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████		GRADE AMN		AFSN/SSAN ████████████████				
TYPE GEN		PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		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 A94.05		INDEX NUMBER A67.10		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 29 Jul 2004		CASE NUMBER FD-2004-00151						

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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

INDORSEMENT		DATE: 7/29/2004
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-2004-00151

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 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 discharge.

ISSUES:

Issue 1. Applicant inferred that discharge was too harsh because it was damaging to his reputation. The records indicated the applicant received two Article 15s for viewing pornography on his government computer. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. 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.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on July 5, 2000) that he understood he must receive an Honorable discharge to receive future educational entitlements. 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 an upgrade.

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 Ramstein AB, Germany on 28 Jul 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 15 Jun 79. Enlmt Age: 20 11/12. Disch Age: 24 1/12. Educ: HS DIPL. AFQT: N/A. A-67, E-73, G-62, M-90. PAFSC: 3C051 - Communications-Computer Systems Operations Journeyman. DAS: 17 Sep 01.

b. Prior Sv: (1) AFRes 23 May 00 - 20 Jun 00 (29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 Jun 00 for 4 yrs. Extended 12 Jul 01 for 3 months. Svd: 3 Yrs 1 Mo 8 Das, all AMS.

b. Grade Status: AMN - 09 Jun 03 (Article 15, 09 Jun 03)
A1C - 21 Oct 01
AMN - 21 Dec 00

c. Time Lost: None.

d. Art 15's: (1) 09 Jun 03, Ramstein AB, Germany - Article 92. You, did, on divers occasions between on or about 30 Apr 03 and on or about 7 May 03, violate a lawful general regulation, to wit: para 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully storing, processing, displaying, and viewing pornographic images and sexually explicit material via your government computer. Reduction to Airman, 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

(2) 16 Oct 02, Ramstein AB, Germany - Article 92. You, did, between on or about 19 Aug 02 and on or about 30 Sep 02, violate a lawful general regulation, to wit: para 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully processing, displaying, and viewing pornographic images and sexually explicit materials via your government computer. Suspended reduction to Airman, forfeiture of \$125.00 pay per months for 2 months, 11 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

- f. CM: None.
- g. Record of SV: 21 Jun 00 - 20 Feb 02 Ramstein AB 5 (Initial)
21 Feb 02 - 20 Feb 03 Ramstein AB 3 (Annual)
- h. Awards & Decs: AFTR, NDSM, AFOEA.
- i. Stmt of Sv: TMS: (3) Yrs (2) Mos (6) Das
TAMS: (3) Yrs (1) Mos (8) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 6 Apr 04.
(Change Discharge to Honorable)

Issue 1: I believe my discharge of General Under Honorable Conditions is damaging on my behalf. I wish to use my Montgomeray G.I. Bill to further my education from that which I've learned in the military. I would like my discharge from the military upgraded to Honorable so I may use my Montgomery G.I. Bill, and so I will not have any negative consequences when attempting to obtain a decent job.

ATCH
None.

25MAY04/ia



RES
DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAFE)

FD 2004-00151

JUL 8 2003

MEMORANDUM FOR AMN: [REDACTED] USAFE CSS

FROM: USAFE CSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, 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 (Under Honorable Conditions).

2. My reasons for this action are:

a. Between on or about 30 April 2003 and on or about 7 May 2003, you violated a lawful general regulation, specifically AFI 33-129, *Transmission of Information Via the Internet*, by wrongfully processing, displaying, and viewing pornographic images and sexually explicit materials on your government computer on divers occasions. For this incident you received non-judicial punishment, dated 9 June 2003. Additionally, this document was placed in your existing Unfavorable Information File (UIF). (Atch 1a and 1b)

b. Between on or about 19 August 2002 and on or about 30 September 2002, you violated a lawful general regulation, specifically, AFI 33-129, *Transmission of Information Via the Internet*, by wrongfully processing, displaying, and viewing pornographic images and sexually explicit materials on your government computer. For this incident you received non-judicial punishment, dated 16 October 2002. Additionally, this document established your UIF. (Atch 1a and 1c)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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 USAF and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 with CAPTAIN [REDACTED], Area Defense Counsel, Ramstein AB, GE, Building 2111, DSN 480-2182/2492 on 9 JUL 03 at 1000 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 by 11 July 03 at 1300 hours 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 submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical evaluation. You must report in uniform with your medical records and an escort to the Ramstein AB Clinic, Physical Exams, Building 2121 on 9 July 03 at 0800 hours for the evaluation. If an examination is required, tell the doctor you need a "separation" physical examination. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208, *Administrative Separation of Airmen*, is available for your use in the orderly room.



Lt Col, USAF

Commander

Attachments:

1. Supporting Documents:
 - a. AF Form 1168
 - b. DD Form 3070, dated 9 June 2003 w/atchs
 - c. DD Form 3070, dated 16 October 2002 w/atchs
 - d. Memorandum for Record, dated 2 July 2003
2. Airman's Receipt of Notification Memorandum