

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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|---|--|-------|------------|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) | | GRADE | AFSN/SSAN |
| [REDACTED] | | AB | [REDACTED] |

| | | | |
|----------|---------------------|--|---------------|
| TYPE GEN | PERSONAL APPEARANCE | X | RECORD REVIEW |
| COUNSEL | | ADDRESS AND OR ORGANIZATION OF COUNSEL | |
| YES | No | | |
| | X | | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
|----------------|-------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| | | | | | X |
| | | | | | X |
| | | | | | X |
| | | | | | X |
| | | | | | X |

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|--------|--------|--------------|--------|---------------------------------|--|
| ISSUES | A92.21 | INDEX NUMBER | A67.90 | 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 |

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|--------------|---------------|
| HEARING DATE | CASE NUMBER |
| 28 Dec 2004 | FD-2004-00300 |

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 and the right to a personal appearance with/without counsel.

DD Form 149 submitted. The case will be forwarded to the AFBCMR for further processing.

[Handwritten Signature]

| | | |
|--|---|------------------|
| INDORSEMENT | | DATE: 12/28/2004 |
| 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

FD-2004-00300

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 was discharged for conduct prejudicial to good order and discipline. The records indicated the applicant received an Article 15, one for underage drinking and failure to obey a lawful written order not to drink while underage, and the other for an indecent act committed against a female civilian off base. A civilian police department report of investigation disclosed that member admitted to the police officer he had forced himself onto the girl, and it "probably was the wrong thing to do." He told the officer this because he didn't want the officer to think he (applicant) was a "scum-bag." Additionally, during an Air Force Office of Special Investigations interview, member admitted under oath and rights advisement to committing the alleged indecent act, although member claimed the civilian female was a willing participant. She however claimed that member threatened harm to her and her son if she told anyone about the incident. Additionally, the record regarding the underage drinking incident disclosed member had also been accused of assaulting a female airman during that incident, but the specification was removed from the Article 15 after member presented his version of events and denied the assault happened as alleged. The Board concluded member's serious misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge was appropriate.

Issue 2 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, this is not a basis of inequity or impropriety on which to justify an upgrade of his discharge, and none was suggested or found in the course of the record review. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 3. Applicant claims he has twice previously requested his discharge be upgraded, without response. The Air Force Review Boards Office has no record of a previous application requesting an upgrade to 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 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 Grand Forks AFB, ND on 19 Oct 00 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 3 Apr 80. Enlmt Age: 19 0/12. Disch Age: 20 6/12. Educ: HS DIPL. AFQT: N/A. A-27, E-48, G-41, M-21. PAFSC: 3P031 - Security Forces Apprentice. DAS: 10 Feb 00.

b. Prior Sv: (1) AFRes 26 Apr 99 - 24 Aug 99 (3 months 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 25 Aug 99 for 6 yrs. Svd: 1 Yrs 1 Mo 25 Das, all AMS.

b. Grade Status: AB - 6 Oct 00 (Article 15, 6 Oct 00)
A1C - Unknown

c. Time Lost: None.

d. Art 15's: (1) 6 Oct 00, Grand Forks AFB, ND - Article 134. You, did, at or near Emerado, ND, on or about 14 Jul 00, wrongfully commit an indecent act with [REDACTED] by masterbating over her and ejaculating into a towel, with intent to gratify your lust or sexual desires; which, under the circumstances, was prejudicial to good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces. Reduction to AB. Seven days restriction, and seven days extra duty. (No appeal) (No mitigation)

(2) 9 May 00, Grand Forks AFB, ND - Article 92. You, having knowledge of a lawful order issued by [REDACTED] to wit: Order not to consume alcohol while under 21 years of age, dated 14 Mar 00, an order which it was your duty to obey, did, on or about 25 Apr 00, fail to obey the same by wrongfully consuming alcoholic beverages while being under the lawful age of 21. Suspended reduction to Airman. Thirty days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

- g. Record of SV: None.
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (1) Yrs (5) Mos (24) Das
TAMS: (1) Yrs (1) Mos (25) Das

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

Issue 1: I am requesting from the US Air Force/Department of Defense an upgrade of my military discharge. I was discharged from the US Air Force in October 2000 with a General Discharge Under Honorable Conditions. I would like my discharge to be upgraded to Honorable. I have submitted paperwork for this twice in the last four years. I have yet to hear anything back from the Air Force/Department of Defense.

I have strived in the last four years to be the best citizen that I can be. I have been in the employ of the Vigo County Sheriff Department since October of 2001. I serve as a Correctional Officer and I am the weekend Supervisor on the night shift. This discharge upgrade would assist me in furthering my career.

My service in the US Air Force was from August 1999 until October of 2000.

I ask for your assistance in this matter. Thank you.

ATCH

- 1. DD Form 149.

27AUG04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 319TH AIR REFUELING WING (AMC)
GRAND FORKS AIR FORCE BASE, NORTH DAKOTA

FD 2004-00300

16 OCT 2000

MEMORANDUM FOR [REDACTED]

FROM: 319 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending you be discharged from the United States Air Force for a pattern of misconduct prejudicial to good order and discipline. The authority for this action is AFPD 36-32 and AFI 36-3208 in accordance with paragraph 5.50.2. 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 14 Jul 00, you wrongfully committed an indecent act with a female, not your wife, by masturbating over her and ejaculating into a towel with the intent to gratify your lust or sexual desires. For this misconduct, you were punished under Article 15 of the UCMJ on 6 Oct 00. Punishment consisted of a reduction to the grade of airman basic, restriction to Grand Forks AFB, ND for 7 days, 7 days of extra duty and this punishment was placed in your existing UIF. (Attachment A)

b. On or about 25 Apr 00, you failed to obey a general order not to consume alcohol while under 21 years of age, given by [REDACTED] and signed by you on 14 Mar 00, by consuming alcoholic beverages while being under the lawful age of 21. For this act of misconduct, you were punished under Article 15 of the UCMJ on 9 May 00. Your punishment consisted of a suspended reduction to the grade of airman, restriction to Grand Forks AFB, ND for 30 days, 30 days of extra duty and a UIF was established. (Attachment B)

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 Air Force.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. You have been scheduled an appointment at the Office of the Area Defense Counsel at Building 306 on NA at NA 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 19 OCT 00 at 1000 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 to 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 examination. You must report to the 319th Medical Group on 18 OCT 00 at 0715 hours for the examination.
8. Deliver to me immediately your military identification. I have requested that temporary identification cards be issued IAW AFI 36-3026(I), paragraph 4.2. You will report to me by COB 16 Oct 00, to verify that issuance of Temporary Identification Card(s) has been accomplished.
9. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A Privacy Act statement is attached. A copy of AFI 36-3208 is available for your use in the squadron orderly room.
10. Execute the attached acknowledgment and return it to me immediately.



Attachments:

1. Privacy Act Statement
2. Supporting Documents
 - a. Article 15/UIF dated 6 Oct 00
 - b. Article 15/UIF dated 9 May 00
3. Airman's Acknowledgment
4. Personnel Information