

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

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

ISSUES	A94.05 A93.09	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

HEARING DATE	CASE NUMBER	
11 Aug 2005	FD-2004-00486	

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.

Names and votes will be made available to the applicant at the applicant's request.

INDORSEMENT

DATE: 8/11/2005

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-2004-00486

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.

ISSUE:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, a vacation, one Letter of Reprimand, and three Letters of Counseling for misconduct. 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 October 2, 1994) 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Hickam AFB, HI on 12 Jun 03 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 21 Apr 81. Enlmt Age: 18 10/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-71, E-72, G-62, M-68. PAFSC: 3A031 - Information Management Apprentice. DAS: 19 May 01.

b. Prior Sv: (1) AFRes 29 Feb 00 - 19 Sep 00 (6 months 21 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 Sep 00 for 4 yrs. Svd: 2 Yrs 8 Mo 24 Das, all AMS.

b. Grade Status: AB - 12 May 03 (Article 15, 12 May 03)
Amn - 10 Mar 03
AB - 10 Sep 02 (Vacation of Article 15, 10 Sep 02)
A1C - 20 Jan 02
Amn - 20 Mar 01

c. Time Lost: None.

- d. Art 15's: (1) 12 May 03, Hickam AFB, HI - Article 92. You, did, on divers occasions, between on or about 24 Feb 03 and on or about 6 May 03, violate a lawful general instruction, to wit: paragraph 6.1.1, AFI 33-129, dated 4 Apr 01, by wrongfully using government provided computers for other than official and authorized government business. Reduction to AB. (No appeal) (No mitigation)
- (2) 10 Sep 02, Vacation, Hickam AFB, HI - Article 92. You, did, on or about 7 Aug 02, violate a lawful general instruction, to wit: paragraph 6.1.1, AFI 33-129, dated 4 Apr 01, by wrongfully using government provided computers for other than official and authorized government business. Reduction to AB. (No appeal) (No mitigation)
- (3) 26 Jul 02, Hickam AFB, HI - Article 92. You, did, on divers occasions, between on or about 1 Jul 02 and on or about 17 Jul 02, violate a lawful general instruction, to wit: paragraph 6.1.1, AFI 33-129, dated 4 Apr 01, by wrongfully using government provided computers for other

than official and authorized government business.
Suspended reduction to AB, and 30 days extra duty.
(No appeal) (No mitigation)

- e. Additional: (Examiner's Note: The following documents are listed on the Notification Memorandum, but are missing from the file).

LOC, 21 JAN 03 - CDC End of Course failure.
LOC, 31 JUL 02 - Making false statements.
LOR, 16 NOV 01 - Accessing unauthorized web sites on a government computer and lying.
LOC, 26 OCT 01 - Accessing a pornographic web site on a government computer and lying.

- f. CM: None.

- g. Record of SV: 20 Sep 00 - 20 May 02 Hickam AFB 3 (Initial)

- h. Awards & Decs: NDSM, AFOSLTR, AFTR.

- i. Stmt of Sv: TMS: (3) Yrs (3) Mos (15) Das
TAMS: (2) Yrs (8) Mos (24) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 16 Nov 04.
(Change Discharge to Honorable)

Issue 1: My discharge is preventing me from using my VA benefits, my discharge is catogorized (sic) as General/under Honorable Conditions, however, when I tried to use my GI bill, I received a notice that I was ineligible to receive it, due to the type of discharge I received, I was also told that I was ineligible to use my VA loan benefit which I would like to use to purchase a home. I know I only served for 2 years and 8 months, but the fact of the matter is I served.

ATCH
None.

9FEB05/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD 2004-00486

20 May 03

MEMORANDUM FOR AB [REDACTED]

FROM: 502 AOS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct that is prejudicial to good military order and discipline. Authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If this discharge action is approved, your service will be characterized as either Honorable, General, or Under Other Than Honorable Condition. I am recommending that your service be characterized as General.

2. My reasons for this action are as follows:

a. On or about 24 Oct 01, you set up a URL shortcut, linked to a pornographic website, on a government computer and then made false official statements about doing so. For this offense, you received a Letter of Counseling, dated 26 Oct 01.

b. On or about 2 Nov 01, you accessed unauthorized web sites from your government work station. Additionally, during the interview for this violation you were not truthful when answering a non-commissioned officer in the Air Force. For this offense, you received a Letter of Reprimand, dated 16 Nov 01.

c. Between on or about 1 July 02 and on or about 17 July 02, you violated a lawful general instruction by wrongfully using government provided computers for other than official and authorized government business. For this offense, you received an Article 15 in violation of Article 92, UCMJ dated 26 Jul 02. Your punishment for this offense was Reduction to the grade of E-1 (Airman Basic), suspended until 25 January 2003, after which time it will be remitted without further action, unless sooner vacated, and 30 days extra duty.

d. On or about 30 Jul 02, you made false official statements to SSgt David M. Armstrong referencing sending e-mail traffic. For this offense, you received a Letter of Counseling, dated 31 Jul 02.

e. On or about 7 Aug 02, you violated a lawful general instruction by wrongfully using government provided computers for other than official and authorized government business. For this offense, your suspended punishment from your 26 Jul 02 Article 15 to the grade of E-1 was vacated.

f. On 17 Jan 03, you failed your End of Course (EOC) examination for your Career

Development Course. For this, you received a Letter of Counseling dated 21 Jan 03.

g. Between on or about 24 Feb 03 and on or about 6 May 03, you violated a lawful general instruction by wrongfully using government provided computers for other than official and authorized government business. For this offense you received an Article 15 for violating Article 92, UCMJ, dated 12 May 03. Your punishment consisted of Reduction to the grade of E-1 (Airman Basic) with the new date of rank of 12 May 03.

Copies of documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or higher authority will decide whether you will be discharged or retained by the Air Force. The commander will also decide how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and can be denied enlistment in any component of the United States Armed Forces. Additionally, you will be ineligible for any special pay, bonus, or education assistance offered by the Armed Forces.

3. You have the right to consult legal counsel. Captain [REDACTED] Area Defense Counsel, Building 1113, 449-2149, has been obtained to assist you. An appointment has been scheduled for you to consult him on **21 May 03 at 1000 hours**. You may consult civilian counsel at your own expense.

4. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within 3 duty days, or by **23 May 03** unless you request and receive an extension for good cause shown. I will forward any statements to the separation authority.

5. If you fail to consult counsel or to submit statements on your own behalf, your failure to do so will constitute a waiver of this privilege.

6. You have been scheduled for a medical examination. You will report to Physical Exams at the 15th Medical Group on **22 May 03 at 0740 hours** and at Primary Care at **0800 hours** for your examination.

7. You must contact Separations, **in uniform**, located in the Military Personnel Flight, at 449-0658, **within 24 hours** of receipt of this letter to set up an initial separations appointment. During this appointment you will surrender your (including family members) active Duty ID card(s), and temporary ID(s) will be issued.

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 through your Commander's Support Staff.

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

A large, dark, irregularly shaped redacted area, likely covering a signature or official stamp.

Colonel, USAF
Commander, 502 Air Operations Group

Attachments:

1. Letter of Counseling, dated 26 Oct 01
2. Letter of Reprimand, dated 16 Nov 01
3. Article 15, AF FM 3070, dated 26 Jul 02
4. Letter of Counseling, dated 31 Jul 02
5. Vacation of Article 15 punishment, dated 10 Sep 02
6. Letter of Counseling, dated 21 Jan 03
7. Article 15, dated 12 May 03