

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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	UOTHC	OTHER	DENY
							X
							X
							X
							X
							X
ISSUES A94.05		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					
04 Oct 2005		FD-2005-00132					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE							
<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> <p>Names and votes will be made available to the applicant at the applicant's request.</p>							
INDORSEMENT			DATE: 10/4/2005				
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-2005-00132

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: Applicant does not contest his discharge. He states that he thought he could request an upgrade six months after his separation and that he has worked hard to rehabilitate himself by successfully holding several jobs since his discharge. The records indicated the applicant received an Article 15 for wrongfully displaying pornographic images on a government computer, a Letter of Reprimand for departing the duty area without authority, and a Letter of Counseling for ignoring the chain of command. 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.

The DRB was pleased to see that the applicant was doing well and has progressed in the job market. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The applicant stated he was told his discharge could be upgraded in six months. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr F.E. Warren AFB, WY on 6 May 02 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: 11 Oct 81. Enlmt Age: 18 4/12. Disch Age: 20 6/12. Educ: HS DIPL. AFQT: N/A. A-59, E-57, G-46, M-43. PAFSC: 2P031 - Security Forces Apprentice. DAS: 13 Nov 00.

b. Prior Sv: (1) AFRes 12 Feb 00 - 30 May 00 (3 months 19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 31 May 00 for 6 yrs. Svd: 1 Yrs 11 Mo 6 Das, all AMS.

b. Grade Status: AMN - 8 Feb 02 (Article 15, 8 Feb 02)

c. Time Lost: None.

d. Art 15's: (1) 8 Feb 02, F.E. Warren AFB, WY - Article 92. You did, on divers occasions between on or about 15 Dec 01 and on or about 24 Dec 01, violate a lawful general regulation, to wit: 6.1.1 and 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully displaying pornographic images on a government computer. Reduction to Airman. Suspended reduction to AB. Thirty days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 7 NOV 01 - Departing duty area without authority. LOC, UNDATED - Ignoring the Chain of Command.

f. CM: None.

g. Record of SV: 31 May 00 - 15 Oct 01 F.E. Warren AFB 4 (HAF Dir)
16 Oct 01 - 07 Mar 02 F.E. Warren AFB 3 (Cmdr Dir)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (2) Mos (25) Das
TAMS: (1) Yrs (11) Mos (6) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 23 Mar 05.
(Change Discharge to Honorable)

Issue 1: Since my discharge from the US Air Force in May of 2002, I have worked hard to rehabilitate myself. I have successful (sic) in holding several jobs, providing myself to be a valuable asset to my employers. When I left these jobs due to relocation and or the opportunity to better my position it was on favorable terms with my employers. I have since remarried and am a productive member of society, both civilian and military, and a solid citizen. It is my understanding that I could request an upgrade in the condition of my discharge from General to Honorable, six months after my separation date. Based on the established and proven record since my discharge, I am requesting that my discharge be so upgraded. I also attached a job reference sheet of all the companies i (sic) have or had worked for.

ATCH

1. Job Reference Sheet.

12MAY05/ia



DEPARTMENT OF THE AIR FORCE
90TH SPACE WING (AFSPC)

FD 2005-00 132

11 Apr 02

MEMORANDUM FOR AMN [REDACTED]

FROM: 319 MS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct and mental disorders. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2 and 5.11.2. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for discharging you for a pattern of misconduct are:

a. You did, at or near Francis E. Warren Air Force Base, Wyoming, on divers occasions between on or about 15 Dec 01 and on or about 24 Dec 01, violate a lawful general regulation, to wit: paragraphs 6.1.1 and 6.1.3, Air Force Instruction 33-129, dated 4 Apr 01, by wrongfully displaying pornographic images on a government computer. For this offense, you were punished under Article 15, UCMJ, on 8 Feb 02. Punishment consisted of reduction to the grade of airman, suspended reduction to the grade of airman basic, and thirty days extra duty.

b. You, having knowledge of your duties at or near Francis E. Warren Air Force Base, Wyoming, on or about 27 Oct 01, were derelict in the performance of those duties in that you departed the Cheyenne area without notifying supervisor's, as it was your duty to do. For this misconduct, you received a Letter of Reprimand (LOR), dated 7 Nov 01.

c. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 17 Jul 00, ignore the chain of command. For this misconduct, you received a Letter of Counseling (LOC), undated.

3. My reason for discharging you for mental disorders is that on or about 14 Feb 02, you received a mental health evaluation from Maj [REDACTED], Staff Psychiatrist, Chief, Mental Health Services, Francis E. Warren Air Force Base, Wyoming. In his memorandum, dated 15 Feb 02, Maj [REDACTED] confirmed the diagnosis of sleepwalking disorder, as contained in the Diagnostic and Statistical Manual of Medical Disorders (DSM-IV). Maj [REDACTED] also stated that your disorder is so severe that your ability to function effectively in the military environment is

significantly impaired. Under the provisions of AFI 36-3208, paragraph 5.11.2, report of evaluation is sufficient to support a recommendation for discharge.

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 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 an attorney at the Area Defense Counsel's Office at Building 292, extension 3248, on 12 Apr 02 at 0800. 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 within three workdays after receipt of the notification memorandum, that date being 16 Apr 02, unless you request and receive an extension for good cause shown. I will send any statements you submit to the separation authority for his consideration.
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 Physical Exams at 0730 hours, on 17 Apr 02 for the examination.
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 your Command Support Staff office.
9. Execute the attached acknowledgment and return it to me immediately.

Commander, 319th Missile

Attachments:

1. Article 15, dated 8 Feb 02
2. LOR, dated 7 Nov 01
3. LOC, undated
4. Statement of Medical Condition, dated 15 Feb 02