

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| (INITIAL) | | | |
| TYPE GEN | X | PERSONAL APPEARANCE | 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 |
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|---------------|---------------|---------------------|---------------|--|--|
| 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 |

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|---------------------|----------------------|
| HEARING DATE | CASE NUMBER |
| 26 Aug 2005 | FD-2005-00137 |

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: 8/26/2005**

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| 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-2005-00137

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 contends discharge was inequitable because it was too harsh and based on one isolated incident. The records indicated the applicant received two Article 15s for misconduct--conduct prejudicial to good order and discipline. 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.

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]
[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Dover AFB, DE on 21 Dec 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: 20 Jan 81. Enlmt Age: 17 9/12. Disch Age: 19 11/12. Educ: HS DIPL. AFQT: N/A. A-94, E-34, G-36, M-28. PAFSC: 2S031 - Supply Management Journeyman. DAS: 10 Sep 00.

b. Prior Sv: (1) AFRes 27 Oct 98 - 1 Jun 99 (7 months 5 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 2 Jun 99 for 4 yrs. Svd: 1 Yrs 6 Mo 20 Das, all AMS.

b. Grade Status: AB - 3 Aug 00 (Vacation of Article 15, 17 Oct 00)
Amn - 3 Aug 00 (Article 15, 3 Aug 00)
A1C - 16 Jul 99

c. Time Lost: None.

d. Art 15's: (1) 17 Oct 00, Vacation, Dover AFB, DE - Article 134. You were, on or about 12 Sep 00, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Article 134. You did, on or about 12 Sep 00, orally communicate to Airman [REDACTED] certain indecent language, to wit: "bitch," "what the hell's wrong with you," "fuck you," "grow the fuck up" and "kiss my ass," or words to that effect. (No appeal) (No mitigation)

(2) 3 Aug 00, Dover AFB, DE - Article 91. You, having received a lawful order from CMSgt [REDACTED] a senior noncommissioned officer, then known by you to be a senior noncommissioned officer, to remain inside of Building 405, an order which it was your duty to obey, did, on or about 26 Jun 00, willfully disobey the same. Article 134. You were, on or about 26 Jun 00, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to AB (below Airman suspended). A reprimand and 30 days restriction. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (1) Mos (25) Das
TAMS: (1) Yrs (6) Mos (20) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 28 Mar 05.
(Change Discharge to Honorable)

Issue 1: My discharge form (sic) the US Air Force was inequitable because it was based on one incident in the 18 months that i (sic) served, with no other adverse actions.

ATCH

None.

12MAY05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 436TH AIRLIFT WING (AMC)

FD 2005-00137

27 Nov 00

MEMORANDUM FOR AB [REDACTED] 436 SUPS

FROM: 436 SUPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, specifically for conduct which is prejudicial to good order and discipline. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If you are discharged, your discharge 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. You, having received a lawful order from Chief Master Sergeant [REDACTED], a senior noncommissioned officer, then known by you to be a senior noncommissioned officer, to remain inside of Building 405, an order which it was your duty to obey, did, at or near Dover Air Force Base, Delaware, on or about 26 June 2000, willfully disobey the same. You also were, on or about 26 June 2000, disorderly, which conduct was of a nature to bring discredit upon the armed forces. For this, you received an Article 15, dated 3 August 2000. Your punishment was a reduction to the grade of Airman, with a suspended reduction to the grade of Airman Basic, a reprimand and restriction to the industrial side of Dover Air Force Base, Delaware for 30 days. This action resulted in the establishment of an Unfavorable Information File.

b. You were, at or near Dover Air Force Base, Delaware, on or about 12 September 2000, disorderly, which conduct was of a nature to bring discredit upon the armed forces. You also did, at or near Dover Air Force Base, Delaware, on or about 12 September 2000, orally communicate to Airman [REDACTED] certain indecent language, to wit: "bitch," "what the hell's wrong with you," "fuck you," "grow the fuck up" and "kiss my ass," or words to that effect. For this, your suspended reduction to the grade of Airman Basic was vacated on 17 October 2000. This action was filed in your Unfavorable Information File.

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.

3. 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 Capt [REDACTED] the Dover Air Force Base Area Defense Counsel, located in building 261, 3rd floor, ext. 6995, on 28 November 2000 at 0930 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 30 Nov 00 (3 duty days) unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination on 5 DEC 2000 at 1215 hours in building 305 Flight Medicine. Your appointment will be with [REDACTED] Report to the Flight Surgeons office 1 hour prior to this appointment to fill out the proper documents. If you have any questions or need to reschedule this appointment, please call TSgt [REDACTED] at ext. 2659. Get a copy of your medical examination and return it to your First Sergeant immediately after your appointment.

7. The Privacy Act Statement of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the orderly room.

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

[REDACTED] Major, USAF
Commander, 436th Supply Squadron

Attachments:

1. Supporting Documents:
 - a. Article 15, dated 3 August 2000
 - b. Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 1 October 2000
 - c. AF Form 1137, Unfavorable Information File Summary
2. Airman's Receipt of Notification Memorandum