

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████ | GRADE SRA | AFSN/SSAN ██████████ |
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|-----------------|----------------------------|---|----------------------|
| 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 |
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| ISSUES A94.05 | INDEX NUMBER A67.50 | 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 09 Nov 2005 | CASE NUMBER FD-2005-00172 | |
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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.

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| SIGNATURE OF RECORDER | SIGNATURE OF BOARD PRESIDENT |
|------------------------------|-------------------------------------|

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| INDORSEMENT | | DATE: 11/10/2005 |
| 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-2005-00172

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 an isolated incident in 42 months of outstanding service. The records indicated the applicant was sentenced to 25 days of hard labor without confinement, restriction to base for 30 days, and forfeiture of \$50 per pay for 12 months after being found guilty by a Special Court Martial for willfully and wrongfully publicly exposing himself. 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

(Former SRA) (HGH SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Vandenberg AFB, CA on 6 Aug 04 UP AFI 36-3208, para 5.52.3 (Pattern of Misconduct - Commission of Serious Offense, Other Serious Offense). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 18 Nov 81. Enlmt Age: 19 2/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-42, E-48, G-39, M-73. PAFSC: 3P051 - Security Forces Journeyman. DAS: 17 Jun 01.

b. Prior Sv: None.

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 25 Jan 01 for 6 years. Svd: 03 Yrs 06 Mo 12 Das, all AMS.

b. Grade Status: SrA - 9 Jul 03
A1C - 9 Mar 01

c. Time Lost: None.

d. Art 15's: None.

e. Additional: NONE.

f. CM: Special Court Martial - 11 Jun 04.

CHARGE I: Dismissed without prejudice after arraignment and prior to entry to plea.

CHARGE II: Article 134.

Specification 1: Plea: NG. Finding: NG.

Specification 2: In that [REDACTED], USAF, 30 SFS, Vandenberg AFB, CA, did, at or near Vandenberg AFB, on or about 6 October 03, while at or near South Gate, Vandenberg AFB, CA, willfully and wrongfully expose in an indecent manner to public view his genitals. Plea: NG. Finding: G, except the words, "on or about 6 October" substituting therefore the words, "on or about 11 October," of the excepted words: NG; of the substituted words: G. Sentence adjudged on 11 Jun 04: To forfeit \$50.00 pay per month for 12 months, to perform hard labor without confinement for 25 days, and to be restricted to the limits of Vandenberg AFB for

a period of 30 days. Action: Only so much of the sentence as provides for forfeiture of \$110.02, hard labor without confinement for 25 days and restriction to the limits of Vandenberg AFB for a period of 30 days is approved and will be executed.

g. Record of SV: 25 Jun 01 - 15 Oct 02 Vandenberg AFB 5 (HAF DIR)
 16 Oct 02 - 15 Oct 03 Vandenberg AFB 5 (Annual)
 15 Oct 03 - 06 Aug 04 Vandenberg AFB 1 (CRO) **REF**

h. Awards & Decs: AFAM, AFTR, NDSM, AFEM, AFOSSTR.

i. Stmt of Sv: TMS: (03) Yrs (06) Mos (12) Das
 TAMS: (03) Yrs (06) Mos (12) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 2 Apr 05.
 (Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incidend (sic) in 42 months of service with no other adverse action, and after a court martial finding had elected for me to remain in the service, with a punishment less than most ART 15 punishments. I feel that after 42 months of outstanding service to include a tour in OEF & OIF, my discharge was unjust.

ATCH

1. Squadron Commander's Indorsement to DD Form 458, Charge Sheet.
2. Area Defense Counsel's Letter to Commander in Response to Discharge Action.
3. Special Courts Martial Order #6, 25 Aug 04.
4. Personal Data Sheet.
5. Certificate of Promotion.
6. Copies of two EPRs.
7. Character Reference.
8. Certificate of Honorary Award.
9. Copies of two Letters of Evaluation.
10. Two Certificates of Training.
11. Certificate of Appreciation.
12. Certificate of Completion.
13. Letter of Appreciation.
14. Copy of AFAM Certificate.
15. Eleven Character References.
16. Copy of DD Form 214.

27MAY05/day



DEPARTMENT OF THE AIR FORCE
30TH SPACE WING (AFSPC)



JUL 06 2004

MEMORANDUM FOR [REDACTED]

FROM: 30 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Commission of a Serious Offense; Other Serious Offenses. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52.3. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

a. On 11 Jun 04, at a trial by special court-martial, you were found guilty of willfully and wrongfully exposing, in an indecent manner to public view, your genitals. In accordance with a panel's finding of guilty, you received forfeiture of \$50.00 per month for 12 months, hard labor without confinement for 25 days, and base restriction for 30 days. Attached is the Report of Result of Trial, AF Form 1359, which summarizes the charges and specifications, pleas, findings, and sentence.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial Authority or a higher authority will decide whether you will be discharged or retained in the Air Force and, if discharge action is approved, how your discharge will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Furthermore, any special pay, bonuses, or education assistance you have received may be subject to recoupment.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. You are to consult the Area Defense Counsel, Building 8500, ext. 6-3627/28, **immediately** after receiving this. 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 9 July 04/1600 (3 duty days) 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 30 MDG at 1300 hours on 13 JUL 04.

8. Any personal information you furnish in rebuttal to this action is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the office of the Area Defense Counsel, Building 8500.

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



Commander

Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum