

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE AIC	AFSN/SSAN
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW.
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	10451 N. 2ND ST, RM 158 MACHESNEY PARK IL. 61115-1455
X		

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

ISSUES	A94.05	INDEX NUMBER	A67.10	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
15 Dec 2005	FD-2005-00200

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

SIGNATURE OF RECORDER _____ SIGNATURE OF BOARD SECRETARY _____

INDORSEMENT

DATE: 12/15/2005

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-2005-00200

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. The records indicated the applicant received an Article 15 for viewing pornographic material on a government computer. He also received a Letter of Reprimand and two Memorandums for Record for financial irresponsibility, being late for work and for missing an appointment. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The applicant states that he was not given the opportunity to disagree, nor fight, the discharge. The record clearly shows the applicant was properly notified by the Commander and acknowledged the receipt of the notification. 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 A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Whiteman AFB, MO on 8 Apr 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 27 Apr 76. Enlmt Age: 17 9/12. Disch Age: 21 11/12. Educ: HS DIPL. AFQT: N/A. A-77, E-77, G-82, M-56. PAFSC: 3C051 - Communications/Computer Systems Operations Journeyman. DAS: 8 Apr 96.

b. Prior Sv: (1) AFRes 7 Feb 94 - 6 Jun 94 (4 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 7 Jun 94 for 4 yrs. Svd: 3 Yrs 10 Mo 2 Das, all AMS.

b. Grade Status: A1C - 16 Mar 98 (Article 15, 16 Mar 98)
SrA - 07 Jun 97
A1C - 07 Oct 95
Amn - Unknown.

c. Time Lost: None.

d. Art 15's: (1) 16 Mar 98, Whiteman, AFB, MO - Article 92. You, who knew or should have known of your duties, on or about 16 Feb 98, were derelict in the performance of those duties in that you willfully failed to refrain from using a United States government computer for personal, non-office purposes, by viewing pornographic material from the internet, as it was your duty to do. Reduction to A1C. (No appeal) (No mitigation)

e. Additional: MFR, 13 NOV 97 - Missed appointment.
MFR, 13 NOV 97 - Late for work.
LOR, 09 OCT 97 - Financial irresponsibility.

f. CM: None.

g. Record of SV: 07 Jun 94 - 06 Feb 96 Barksdale AFB 3 (Initial)
07 Feb 96 - 01 Jul 96 Barksdale AFB 5 (CRO)
02 Jul 96 - 01 Jul 97 Whiteman AFB 4 (Annual)

h. Awards & Decs: AFTR, AFOUA W/1 DEV, AFGCM.

i. Stmt of Sv: TMS: (4) Yrs (2) Mos (2) Das
TAMS: (3) Yrs (10) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 12 May 05
(Change Discharge to Honorable)

Issue 1: I feel that the manner in which the process of my discharge was given me was in the wrong. It was explained to me, by my First Sgt., that I was to be given an early discharge and it was not explained to me, in any way, in what manner it was to be given. I was not given the opportunity to disagree, nor fight, the decision to be discharged General Under Honorable Conditions. I was never told the condition of discharge. I feel that my rights were violated and that I was not given the opportunity to legally stand on a direct decision of discharge that was to affect my veteran status for the rest of my life.

ATCH

1. DD Form 214.

27JUN05/ia

FD 2005-00200

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 509TH COMMUNICATIONS SQUADRON (ACC)
WHITEMAN AIR FORCE BASE, MISSOURI

24 MAR 98

MEMORANDUM FOR [REDACTED]

FROM: 509 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authorities for this action are AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service may 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 this action are:

a. On or about 16 Feb 98, you, who knew or should have known of your duties at or near Whiteman Air Force Base, Missouri, were derelict in the performance of those duties in that you willfully failed to refrain from using a United States government computer for personal, non-office purposes, by viewing pornographic material from the internet, as it was your duty to do, in violation of UCMJ, Article 92. For this misconduct you received an AF Form 3070, dated 18 Mar 98. (Atch 1a)

b. On or about 12 Nov 97, you failed to go to your appointed place of duty at the time prescribed, to wit: you failed to go to your 0830 hours appointment to receive your restricted area badge. For this misconduct you received a Memorandum, dated 13 Nov 97. (Atch 1b)

c. On or about 11 Nov 97, you failed to go to your appointed place of duty at the time prescribed, to wit: you failed to report for duty at 1550 hours to allow for shift turnover and showed up at 1615 hours. For this misconduct you received a Memorandum, dated 13 Nov 97. (Atch 1c and 1d)

d. On or about 3 Nov 97, you failed to go to your appointed place of duty at the time prescribed, to wit: you failed to report for duty at 1550 hours to allow for shift turnover and showed up at 1601 hours. For this misconduct you received a Memorandum, dated 13 Nov 97. (Atch 1c and 1d)

e. On or about 19 Oct 97, you dishonorably failed to maintain sufficient funds in your checking account and bounced a check to the Defense Commissary Agency in the amount of \$26.48, as evidenced by Dishonored Check Memorandum, dated 4 Nov 97. (Atch 1e)

f. On or about 1 Oct 97, you dishonorably failed to pay your just debt on your government American Express Card account in the amount of \$2473.93. For your misconduct you received a Letter of Reprimand, dated 9 Oct 97. (Atch 1f)

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 convening authority 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 [REDACTED] at building 509 on 30 MAR 98 at 1200. 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 27 Mar 98 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 Physical Exams at 1515 on 26 Mar 98 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 Orderly Room.
9. Execute the attached acknowledgment and return it to me immediately.



Attachments:

1. Supporting documents -- for the reason for discharge
 - a. AF Form 3070, dated 18 Mar 98
 - b. Memorandum, dated 13 Nov 97
 - c. Memorandum, dated 13 Nov 97
 - d. Memorandum, dated 19 Mar 98
 - e. Dishonored Check Memorandum, dated 4 Nov 97
 - f. Letter of Reprimand, dated 9 Oct 97
2. Documents containing derogatory information -- which are not listed in the notification memorandum: None.
3. Airman's receipt of notification memorandum, dated 24 Mar 98.