

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>		GRADE AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>																																			
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW																																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">COUNSEL</th> </tr> <tr> <td style="width: 50%; text-align: center;">YES</td> <td style="width: 50%; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>		COUNSEL		YES	No	X		NAME OF COUNSEL AND OR ORGANIZATION ADDRESS AND OR ORGANIZATION OF COUNSEL																														
COUNSEL																																						
YES	No																																					
X																																						
MEMBER SITTING		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="5" style="text-align: center;">VOTE OF THE BOARD</th> </tr> <tr> <th style="width: 15%;">HON</th> <th style="width: 15%;">GEN</th> <th style="width: 15%;">UO/HC</th> <th style="width: 15%;">OTHER</th> <th style="width: 40%;">DENY</th> </tr> <tr><td></td><td></td><td></td><td></td><td style="text-align: center;">X**</td></tr> <tr><td></td><td></td><td></td><td></td><td style="text-align: center;">X**</td></tr> <tr><td></td><td></td><td></td><td></td><td style="text-align: center;">X**</td></tr> <tr><td></td><td></td><td></td><td></td><td style="text-align: center;">X**</td></tr> <tr><td></td><td></td><td></td><td></td><td style="text-align: center;">X**</td></tr> </table>		VOTE OF THE BOARD					HON	GEN	UO/HC	OTHER	DENY					X**					X**					X**					X**					X**
VOTE OF THE BOARD																																						
HON	GEN	UO/HC	OTHER	DENY																																		
				X**																																		
				X**																																		
				X**																																		
				X**																																		
				X**																																		
ISSUES A94.53		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																																				
HEARING DATE 28 Jul 2006		CASE NUMBER FD-2005-00359																																				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE																																						
Case heard in 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. *Reason and Authority +Reenlistment Code																																						
SIGNATURE OF RECORDER <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>		SIGNATURE OF BOARD PRESIDENT <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>																																				
INDORSEMENT		DATE: 8/25/2006																																				
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-2005-00359

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE:

The applicant submitted no issues and requested that the review be completed based on the available service record. The applicant has expressed a desire for upgrade of his discharge to allow for reenlistment in the United States Navy. The records indicated the applicant received two Article 15's for misconduct. The Article 15's were for wrongfully displaying obscene images from the internet on his government computer and for using his government computer to display images of women in bikinis and underwear. The first Article 15 he was punished with a reduction in grade to airman basic, 30 days extra duty and a reprimand. The second Article 15 resulted in 30 days extra duty and a reprimand. 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.

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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Pope AFB, NC on 29 Oct 03 UP AFI 36-3208, para 5.50.1 (Pattern of Misconduct - Discreditable Involvement With Military or Civil Authorities). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 29 Dec 79. Enlmt Age: 18 5/12. Disch Age: 23 10/12. Educ: HS DIPL. AFQT: N/A. A-65, E-67, G-52, M-41. PAFSC: 3E531 - Engineering Apprentice. DAS: 23 Sep 02.

b. Prior Sv: (1) Enlisted US Navy 17 Jun 98. Svd: 2 yrs 11 months 13 days, all AMS. SN(E3) - 16 Mar 00. No performance reports available.

(2) IRR(US Navy) 30 May 01 - 18 Apr 02 (10 months 29 days) (Inactive). No grade data or performance reports available.

3. **SERVICE UNDER REVIEW:**

a. Enlisted USAF as Amn 19 Apr 02 for 4 yrs. Svd: 1 Yrs 6 Mo 10 Das, all AMS.

b. Grade Status: AB - 3 Feb 03 (Article 15, 3 Feb 02)

c. Time Lost: None.

d. Art 15's: (1) 2 Sep 03, Pope AFB, NC - Article 92. You, did, between on or about 14 Jul 03 and on or about 18 Jul 03, violate a lawful general regulation, to wit: paragraph 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully displaying obscene images from the internet on your government computer. You, did, on divers occasions, on or about 8 Jul 03, violate a lawful general regulation, to wit: paragraph 6.1.1, AFI 33-129, dated 4 Apr 01, by wrongfully using your government computer for personal use, specifically, to display images of women in bikinis and underwear. Thirty days extra duty and a reprimand. (No appeal) (No mitigation)

(2) 3 Feb 03, Pope AFB, NC - Article 92. You, did, between on or about 16 Oct 02, and on or about 17 Oct 02, violate a lawful general regulation, to wit: paragraph 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully displaying obscene images from the internet on your

government computer. You, did, on or about 16 Jan 03, violate a lawful general regulation, to wit: paragraph 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully using your government computer for personal use and wrongfully displaying obscene images from the internet on your government computer. Reduction to AB, 30 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: VBC, 5 MAR 03 - Counseled of the consequences of continued violations of Air Force Policy regarding wrongful displaying obscene images from the internet on government computers. (See paragraph 3, line 6, Recommendation for Discharge, 21 Oct 03 [Document missing]).

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFLSAR, MPSR, SDDR(2), NAVY AND MARINE CORPS OVERSEAS RIBBON.

i. Stmt of Sv: TMS: (05) Yrs (04) Mos (13) Das
TAMS: (04) Yrs (05) Mos (24) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 4 Sep 05.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: To enlist in the U.S. Navy Reserve to continue my military career.

ATCH

1. DD Form 214.

21OCT05/ia



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE, NORTH CAROLINA**

OCT 16 2003

MEMORANDUM FOR AB [REDACTED], 43 CES

FROM: 43 CES/CC
560 Interceptor
Pope AFB, NC 28308

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50, specifically paragraph 5.50.1, Discreditable Involvement with Military or Civil Authorities. This action could result in your separation with an Under Other Than Honorable Conditions discharge (UOTHC), if the convening authority determines such characterization is warranted and directs initiation of a discharge board. I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reasons for this action are:

a. Between on or about 14 July 2003 and on or about 18 July 2003, on divers occasions you violated a lawful general regulation, to wit: paragraph 6.1.3, Air Force Instruction 33-129, dated 4 April 2001, by wrongfully displaying obscene images from the internet on your government computer, as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 2 Sep 03.

b. On or about 8 July 2003, on divers occasions you violated a lawful general regulation, to wit: paragraph 6.1.1, Air Force Instruction 33-129, dated 4 April 2001, by wrongfully using your government computer for personal use, specifically to display images of women in bikinis and underwear as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 2 Sep 03.

c. On or about 16 January 2003, you violated a lawful general regulation, to wit: paragraphs 6.1.1 and 6.1.3, Air Force Instruction 33-129, dated 4 April 2001, by wrongfully using your government computer for personal use and wrongfully displaying obscene images from the internet on your government computer as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 3 Feb 03.

d. Between on or about 16 October 2002 and on or about 17 October 2002, you violated a lawful general regulation, to wit: paragraph 6.1.3, Air Force Instruction 33-129, dated 4 April 2001, by wrongfully displaying obscene images from the internet on your government computer as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 3 Feb 03.

AMC - Global Reach For America

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. 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. Contact SSgt: [redacted] (extension 4-2362) at the Area Defense Counsel's office immediately after being served with this notification memorandum. At that time an appointment will be scheduled for you to consult the Area Defense Counsel. You may consult civilian counsel at your own expense. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.**
5. You have the right to submit a statement in your own behalf. Any statements you want the Separation Authority to consider must reach me by 21 Oct 03 at 10:30 unless you request and receive an extension for good cause shown. Any submitted statements will be forwarded to the Separation Authority.
6. If you fail to consult counsel or to submit statements in your own behalf in **three duty days**, your failure will constitute a waiver of your right to do so.
7. You have been scheduled for a physical examination with Dr. [redacted]. **Report to Pope AFB Family Practice Clinic on 17 Oct 03 at 1530 hours. In addition, report to Lab ASAP for HIV screening.**
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 at the orderly room.

[redacted]

Commander

Attachments:

1. AF Form 3070, dated 2 Sep 03
2. AF Form 3070, dated 3 Feb 03
3. MFR Regarding Verbal Counseling, dated 5 Mar 03