

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []	GRADE AMN	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				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>	YES	No		X		
YES	No					
	X					

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[]					X
[]					X
[]					X
[]					X
[]					X

ISSUES A94.05	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD														
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE HE</td></tr> </table>	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 HE
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HEARING DATE 08 Feb 2007	CASE NUMBER FD-2006-00176	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

[]

INDORSEMENT		DATE: 2/12/2007
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-2006-00176

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:

Although not explicitly stated, applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, three Letters of Reprimand, and a Letter of Counseling for misconduct. The applicant received an Article 15 for committing sodomy with a child under the age of 16 and for wrongfully communicating to an airman that he would deal with him with a Glock 40 handgun. He was punished with a reduction in grade to Airman, restriction to Edwards AFB for 30 days, and 30 days of extra duty. He was administratively disciplined for failure to go on two separate occasions, missing an appointment, speeding, and failure to obey a lawful regulation. 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Edwards AFB, CA on 11 Oct 00 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Jan 79. Enlmt Age: 18 8/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-39, E-41, G-30, M-45. PAFSC: 2A651A - Aerospace Propulsion Apprentice. DAS: 26 May 98.

b. Prior Sv: (1) AFRes 26 Sep 97 - 20 Jan 98 (3 months 25 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 Jan 98 for 4 yrs. Svd: 02 Yrs 08 Mo 21 Das, all AMS.

b. Grade Status: Amn - 11 Aug 00 (Article 15, 11 Aug 00)
A1C - 21 May 99
Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) 11 Aug 00, Edwards AFB, CA - Article 125. You, did, at or near March Air Reserve Base, California, on or about 15 May 00, commit sodomy with Paliye Ziba, a child under the age of 16 years. Article 134. You, did, at or near Edwards AFB, California, on or about 10 Jun 00, wrongfully communicate to A1C Starsky D. Murrell a threat to deal with him with your Glock 40 handgun. Reduction to Airman, restriction to Edwards AFB, CA for 30 days and 30 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR/UIF/CR, 28 AUG 00 - Failure to go.
LOC, 09 NOV 99 - Failure to obey a lawful regulation.
LOR, 16 JUL 99 - Speeding.
LOR, 24 FEB 99 - Failure to go.
VBC, 04 AUG 98 - Missed appointment.

f. CM: None.

g. Record of SV: 21 Jan 98 - 20 Sep 99 Edwards AFB 4 (Initial)
21 Sep 99 - 20 Sep 00 Edwards AFB 2 (Annual)REF

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (03) Yrs (00) Mos (26) Das
TAMS: (02) Yrs (08) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01 May 06.
(Change Discharge to Honorable)

Issue 1: I request a change do (sic) to the fact that it's been extremely difficult to find employment with a good company. After I submit my DD 214 I have been denied employment opportunities at the United States Postal Service and also the Transportation Security Administration. By having misconduct and a general discharge many employers will tell me that I'm qualified but they can not (sic) hire me because of my military background.

ATCH
None.

06JUL06/ia

FD 2006-00176



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 412TH TEST WING (AFMC)
EDWARDS AIR FORCE BASE, CALIFORNIA

MEMORANDUM FOR AMN: _____, 412 MXS

FROM: 412 MXS/CC

SEP 18 2000

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, para 5.49. If my recommendation is approved, your discharge will be characterized as honorable or general. I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for discharging you for minor disciplinary infractions are:

a. On 23 Feb 99, you failed to report to your appointed place of duty, as evidenced by a Letter of Counseling, dated 24 Feb 99. (Atch 1.1)

b. On 12 Jul 99, you were cited for speeding on Edwards AFB, going 78 mph in a 60 mph zone, as evidenced by a Letter of Reprimand, dated 16 Jul 99. (Atch 1.2)

c. On 8 Nov 99, you willfully disregarded shop policy by eating in the GE Section, as evidenced by a Letter of Counseling, dated 9 Nov 99. (Atch 1.3)

d. On 15 May 00, you committed sodomy with a child under the age of 16 years and on 10 Jun 00, you communicated a threat to A1C _____ as evidenced by an Article 15 and an Unfavorable Information File, dtd 11 Aug 00. (Atch 1.4)

e. On 24 Aug 00, you failed to go to your appointed place of duty, as evidenced by a Letter of Reprimand, dated 28 Aug 00, an Unfavorable Information File entry and a control roster action, dtd 6 Sep 00. (Atch 1.5)

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 (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.

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 Capt. _____ at Bldg 2670 on 18 Sep 00 at 10:30. 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 20 Sep 00 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 the Physical Examination Section, Flight Surgeon's Office, Bldg 3925 at 0730 on NIA 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 the Orderly Room.

Commander

Attachments:

- 1.1 LOR, dtd 24 Feb 99
- 1.2 LOR, dtd 16 Jul 99
- 1.3 LOC, dtd 9 Nov 99
- 1.4 Article 15, dtd 11 Aug 00
- 1.5 LOR, dtd 28 Aug 00, UIF, dtd 6 Sep 00
- 1.6 Other derogatory data not listed not listed in the notification memo
2. Airman's receipt of notification memorandum