

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>
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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	
	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
					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

HEARING DATE	13 Mar 2007	CASE NUMBER	FD-2006-00198
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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 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: 3/19/2007
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-2006-00198

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:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, a Letter of Reprimand, a Letter of Counseling, and a Letter of Admonishment for misconduct. The applicant received his first Article 15 for wrongfully viewing and storing pornographic images via a government computer. He was punished with a reduction in grade to Airman First Class and 30 days of extra duty. The second Article 15 was for stealing a DVD from another airman. He was reduced in grade to Airman Basic, restricted to base for 30 days and performed 7 days of extra duty. He was administratively disciplined for violating an order by possessing a Gameboy and a magazine while on post, speeding, driving with an expired state registration and driver's license, and performing an unsafe and prohibited act by using firecrackers on post. 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.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 SrA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Beale AFB, CA on 25 May 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Jun 80. Enlmt Age: 18 0/12. Disch Age: 23 11/12. Educ: HS DIPL. AFQT: N/A. A-80, E-90, G-78, M-80. PAFSC: 3P051 - Security Forces Journeyman. DAS: 4 Jan 99.

b. Prior Sv: (1) AFRes 12 Jun 98 - 19 Aug 98 (2 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 Aug 98 for 6 yrs. Svd: 05 Yrs 09 Mo 06 Das, all AMS.

b. Grade Status: AB - 10 Apr 04 (Article 15, 10 Apr 04)
A1C - 20 Feb 03 (Article 15, 20 Feb 03)
SrA - 20 Apr 01
A1C - 03 Oct 98

c. Time Lost: None.

d. Art 15's: (1) 10 Apr 04, Al Udeid AB, Qatar - Article 121. You, did, on or about 29 Mar 04, steal a digital video disc, of a value of about \$13.00, the property of SrA [REDACTED]. Reduction to AB. Restriction to the limits of Al Udeid AB, Qatar for 30 days, 7 days extra duty. (No appeal) (No mitigation)

(2) 20 Feb 03, Beale AFB, CA - Article 92. You did, on or about 22 Jan 03, violate a lawful general regulation, to wit: paragraph 6.1 and 6.1.3, AFI 33-129, Transmission of Information Via the Internet, dated 4 Apr 01, by wrongfully viewing and storing pornographic images via your government computer. Reduction to A1C, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOC, 07 AUG 03 - Performed an unsafe and prohibited act by using firecrackers on Beale AFB.
LOA, 02 JUN 03 - Speeding, driving with expired state registration, and driving on an expired license.
LOR, 05 DEC 02 - Violating a lawful order by possessing a Gameboy and a magazine while on post.

f. CM: None.

g. Record of SV: 20 Aug 98 - 19 Apr 00 Beale AFB 3 (Initial)
20 Apr 00 - 19 Apr 01 Beale AFB 4 (Annual)
20 Apr 01 - 19 Apr 02 Beale AFB 5 (Annual)
20 Apr 02 - 19 Apr 03 Beale AFB 2 (Annual)REF

h. Awards & Decs: AFOUA W/2 OLCS, NDSM, AFEM, AFLSAR, AFTR.

i. Stmt of Sv: TMS: (05) Yrs (11) Mos (14) Das
TAMS: (05) Yrs (09) Mos (06) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 15 May 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Forms 214 (Member 1&4).

20JUN06/ia

Memorandum for Record

15 May 2006

For: Discharge Upgrade Review Board

From:

I was discharged from the military on 24 May 2004. I am of the opinion my discharge was inequitable because I believe it was executed out of anger. I think the Commander may have reacted to how he was feeling at the time, and made a rash decision. I was discharged from a six-year contract after five years, nine months, and four days. At the time I had accrued 55.5 days of leave. That would have left me with less than one month left to serve in my military career.

I am not saying that I didn't deserve to be punished for my actions, but I feel the punishment was inappropriate. I had already received and accepted non-judicial punishment for my individual infractions. When presented with his intent to discharge me, I responded by asking if there was another way to pay the price. I expressed my desire to do whatever it took to make up for what I had done, but not to use financial punishment. I told him how a discharge, even though it was a general discharge (under honorable conditions) would not only hurt me, but my family as well.

The discharge affected my family in two ways. One is that I was unable to receive unemployment benefits because I had not completed a full first term of enlistment. Two is that I was not able to take advantage of the Montgomery G.I. bill, which I had paid for.

Not being able to draw unemployment made it difficult for a short period of time after I was discharged, but we made do. The fact that I cannot use the G.I. bill is still affecting me. I am trying to get an education so I can continue to help support my family. The G.I. bill will help us out tremendously and is the only reason I am requesting to upgrade my discharge.

I believe that even though I did not fully complete my term of enlistment, I fulfilled more than enough to be able to use what I paid for.

Thank you for your time and consideration.





DEPARTMENT OF THE AIR FORCE
9TH SECURITY FORCES SQUADRON
BEALE AIR FORCE BASE, CALIFORNIA 95903

FD 2006-00198

MAY 06 2004

MEMORANDUM FOR AB: [REDACTED]

FROM: 9 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

a. On 15 November 2002, you violated a lawful order by possessing a Gameboy and a magazine while on post. For this misconduct you received a Letter of Reprimand dated 5 December 2002.

b. On 22 January 2003, you violated a lawful regulation by wrongfully viewing and storing pornographic images on your government computer. For this misconduct you received a Record of Nonjudicial Punishment dated 20 February 2003.

c. On 30 May 2003, you were cited for speeding, driving with expired state registration, and driving on an expired license. For this misconduct you received a Letter of Admonishment dated 2 June 2003.

d. On 6 August 2003, you performed an unsafe and prohibited act by using firecrackers on Beale Air Force Base. For this misconduct you received a Letter of Counseling dated 7 August 2003.

e. On 29 March 2004, you stole a digital video disc valued at \$13.00. For this misconduct you received a Record of Nonjudicial Punishment dated 10 April 2004.

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 Captain: [REDACTED] on 06 May 2004, at 1400 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 11 May 2004 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. You must report to Public Health, on 6 May 2004, at 1440 hours for the examination.

7. 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 Commander's Support Staff and Separations Office at the MPF.

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



Commander

Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum