

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; width: 150px; height: 20px; margin-top: 5px;"></div>		GRADE SRA	AFSN/SSAN <div style="border: 1px dashed black; width: 100px; height: 20px; margin-top: 5px;"></div>																																			
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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																																						
<p>Case heard in Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p> <p>* Reason and Authority + Reenlistment Code</p> <div style="border: 1px dashed black; width: 750px; height: 40px; margin-top: 20px;"></div>																																						
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-2006-00219

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

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: Appeal to change the reason and authority for discharge and change of reenlistment code are 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 the reason and authority or reenlistment code.

ISSUE:

Applicant contends discharge was inequitable because evidence from a personal web page was unfairly obtained by his flight superintendent and forwarded up his chain of command. The records confirmed that an investigating officer was appointed to determine the validity of information posted on an internet website. The applicant voluntarily admitted that he had voluntarily placed an advertisement on line which constituted a declaration of his sexual preference. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The reason and authority 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 HON Disch fr USAF Robins AFB, GA on 29 Mar 05 UP AFI 36-3208, para 5.36.2.2 (Homosexual Admission). Appeals for a Change in RE Code and to Change the Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 27 Jul 81. Enlmt Age: 20 3/12. Disch Age: 23 8/12. Educ: HS DIPL. AFQT: N/A. A-94, E-97, G-96, M-94. PAFSC: 1A551 - Airborne Mission Systems Journeyman. DAS: 21 Nov 02.

b. Prior Sv: (1) AFRes 29 Oct 01 - 20 May 02 (6 months 22 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 May 02 for 6 yrs. Svd: 02 Yrs 10 Mo 09 Das, all AMS.

b. Grade Status: SrA - 5 Nov 04
A1C - 5 Jul 02

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 21 May 02 - 20 Feb 04 Robins AFB 5 (Initial)

h. Awards & Decs: NDSM, AFTR, AFESR.

i. Stmt of Sv: TMS: (03) Yrs (05) Mos (00) Das
TAMS: (02) Yrs (10) Mos (09) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 26 May 06.
(Change Discharge to the RE Code and Change the Reason for Discharge)

Issue 1: My discharge was inequitable because evidence (personal web page) was unfairly obtained by my flight superintendent and forwarded up the Chain of Command without my notification. Said web page contained no identifying information, and no information regarding status as USAF servicemember. Furthermore, discharge proceedings were started with no regard as to my excellent service record or manning shortages in my career field.

ATCH

1. DD Form 214.

12JUL06/ia



DEPARTMENT OF THE AIR FORCE
12th AIRBORNE COMMAND AND CONTROL SQUADRON (ACC)
ROBINS AIR FORCE BASE, GEORGIA

FD 2006-00719

MAR 07 2005

MEMORANDUM FOR SENIOR AIRMAN: _____

FROM: 12 ACCS/CC

SUBJECT: Notification Memorandum – Board Hearing

1. I am recommending your discharge from the United States Air Force for homosexual conduct according to AFPD 36-32, Military Retirements and Separations, and AFI 36-3208, Administrative Separation of Airmen, under the provisions of paragraph 5.36.2.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

On 1 Feb 05, an investigating officer (IO) was appointed to determine the validity of information posted on an internet website. An advertisement was posted in the Personals on Yahoo.com soliciting a partner of the same sex. In the interview with the IO, you confirmed that the person in the advertisement is you and that you had voluntarily placed the advertisement online. The advertisement constitutes a declaration of your sexual preference. Actions are being taken based on the results of the IO investigation.

3. This action could result in your separation with a general discharge. I am recommending that you receive a general discharge. The commander exercising Special Court-Martial (SPCM) jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board, subject to your availability.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have an appointment for an initial briefing at Separations, Bldg 905, 327-7348, at 1000 hours on 8 Mar 05. Please bring an escort for your assistance.

6. You have been scheduled for a medical examination. You must report to Flight Medicine located in Building 700A at 1415 hours on 8 Mar 05. You must be in uniform and on time in order to keep the scheduled appointment.

7. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult with Area Defense Counsel, 926-5852, at 1400 hours on 7 Mar 05. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201, Administration of Military Justice. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

8. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

9. 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 Area Defense Counsel's Office.

10. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

11. If you received advanced education assistance, special pay, or bonuses, and have not completed the period of active duty you agreed to serve, you may be subject to recoupment.

12. Execute the attached acknowledgement and return it to me immediately.

Commander

Attachments:
(listed on next page)

Attachments:

1. Supporting Documents
 - a. Yahoo Personal Ad, 27 Jan 05
 - b. IO Appointment Letter, 1 Feb 05
 - c. MFR, 2 Feb 05
 - d. MFR, 2 Feb 05
 - e. IO Report, 2 Feb 05
2. Airman's Receipt of Notification Memorandum