

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AB

TYPE UOTH

PERSONAL APPEARANCE

X

RECORD REVIEW

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

A94.53

INDEX NUMBER

A67.90

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

24 May 2007

CASE NUMBER

FD-2006-00459

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: 5/29/2007

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

FD-2006-00459

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 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 Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received two Article 15s, a Letter of Reprimand and a civilian police report for misconduct. The applicant received his first Article 15 for failure to go to his appointed place of duty and wrongful possession of marijuana. He was punished with a reduction in grade to Airman, suspended forfeiture of pay, restriction to F.E. Warren AFB for 30 days and 15 days of extra duty. His second Article 15 was for committing an indecent act with a female by secretly videotaping her while engaged in sexual intercourse and for secretly videotaping another airman while engaged in sexual intercourse. He was reduced in grade to Airman Basic, restricted to base for 30 days, and 45 days of extra duty. He had additional misconduct and was administratively disciplined for dereliction of duty and a civilian arrest for disorderly conduct and assault. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the applicant's 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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAF F.E Warren AFB, WY on 12 Dec 00 UP AFI 36-3208, para 5.50.2 (Patter of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 8 Aug 80. Enlmt Age: 18 1/12. Disch Age: 20 4/12. Educ: HS DIPL. AFQT: N/A. A-61, E-49, G-53, M-47. PAFSC: 3P031 - Security Forces Apprentice. DAS: 21 Jun 99.

b. Prior Sv: (1) AFRes 26 Sep 98 - 26 Jan 99 (4 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 Jan 99 for 6 yrs. Svd: 01 Yrs 10 Mo 16 Das, all AMS.

b. Grade Status: AB - 6 Sep 00 (Article 15, 6 Sep 00)
Amn - 20 Jul 00 (Article 15, 20 Jul 00)
A1C - Unknown

c. Time Lost: None.

d. Art 15's: (1) 6 Sep 00, F.E Warren AFB, WY - Article 134. You did, on or about 22 Nov 99, wrongfully commit an indecent act with a woman named "Dallas" by secretly videotaping her while you engaged in sexual intercourse with her. Article 134. You did, on or about 1 Jun 00, wrongfully commit an indecent act with A1C [redacted] by secretly videotaping her while [redacted] and A1C [redacted] fondled and engaged in oral sexual intercourse with her. Reduction to AB, restriction to the limits of F.E Warren AFB, WY for 30 days, and 45 days extra duty. (No appeal) (No mitigation)

(2) 20 Jul 00, F.E Warren AFB, WY - Article 86. You did, on or about 29 Jun 00, without authority, fail to go at the time prescibed to your appointed place of duty, to wit: 90th Civil Engineering, building 322. Article 112a. You did, on divers occasions between on or about 21 Apr 00 and 24 Apr 00, wrongfully possess marijuana, a schedule I control substance. Reduction to Airman. Suspended forfeiture of \$500.00 pay per month for two months. Restriction to the limits of F.E Warren AFB, WY, for 30 days, and 15 days extra duty. (No appeal) (No mitigation)

e. Additional: POLICE REPORT, 5 JUL 00 - Arrested for disorderly conduct
and assault.
LOR, 2 MAY 00 - Dereliction of duty.

f. CM: None.

g. Record of SV: 27 Jan 99 - 26 Sep 00 F.E Warren AFB 1 (Initial)REF

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (02) Yrs (02) Mos (17) Das
TAMS: (01) Yrs (10) Mos (16) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Nov 06.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

None.

26JAN07/ia



FD 2006-00459

DEPARTMENT OF THE AIR FORCE
90TH SPACE WING (AFSPC)

NOV - 7 2000

MEMORANDUM FOR AB: [REDACTED]

FROM: 90 SFS/CC

SUBJECT: Notification Memorandum -- Board Hearing

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 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 22 Nov 99, wrongfully committed an indecent act with a woman named "Dallas" by secretly videotaping her while you engaged in sexual intercourse with her.

b. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 1 Jun 00, wrongfully committed an indecent act with Airman First Class [REDACTED] by secretly videotaping her while [REDACTED] and Airman First Class [REDACTED] fondled and engaged in oral sexual intercourse with her.

c. For the above offenses (items a and b), you received a Nonjudicial Punishment, dated 6 Sep 00. Your punishment included a reduction to the grade of airman basic with a new date of rank of 6 Sep 00, restriction to Francis E. Warren Air Force Base for 30 days, and 45 days extra duty. This Nonjudicial Punishment was placed in your existing Unfavorable Information File (UIF).

d. You did, at or near Francis E. Warren Air Force Base, Wyoming, on or about 29 Jun 00, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 90th Civil Engineer Squadron, building 322.

e. You did, at or near Francis E. Warren Air Force Base, Wyoming, on divers occasions between on or about 21 Apr 00 and 24 Apr 00, wrongfully possess marijuana, a Schedule I controlled substance.

f. For the above offenses (items d and e), you received a Nonjudicial Punishment, dated 20 Jul 00. Your punishment included a reduction to the grade of airman with a new date of rank of 20 Jul 00, restriction to Francis E. Warren Air Force Base for 30 days, suspended forfeiture of \$500.00 pay per month for two months, and 15 days extra duty. This Nonjudicial Punishment was placed in a UIF.

g. On or about 3 Jul 00, you were involved in a fight at the food court in the Foothills Fashion Mall in Fort Collins, Colorado. You assaulted a mall customer. You were evasive in providing information about your identity and duty location to the local police. You were arrested for disorderly conduct and assault.

h. You were, at or near Francis E. Warren Air Force Base, Wyoming, on or about 2 May 00, derelict in the performance of your duties in that you failed to complete your assigned duties as bay orderly, as it was your duty to do. For this offense, you received a Letter of Reprimand (LOR) dated 2 May 00.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising 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, and any special pay, bonus, or education assistance funds may be subjected to recoupment.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- 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. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult with an attorney at the Area Defense Counsel's Office at Building 292, extension 3248, on NOV - 7 2000 at 1615. 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. 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.

6. Confer with your counsel and reply, in writing, within seven 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.
7. You have been scheduled for a medical examination. You must report to Physical Exams at 0700 hours, on NOV - 8 2000 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 Command Support Staff office.
9. 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.
10. Execute the attached acknowledgment and return it to me immediately.



Commander, 90th Security Forces Squadron

Attachments:

1. AF Form 3070, dated 6 Sep 00
2. AF Form 3070, dated 20 Jul 00
3. Fort Collins Police Report
4. LOR, dated 2 May 00