

TYPE		PERSONAL APPEARANCE		X RECORD REVIEW							
<table border="1"> <tr> <td>CONFIRMED</td> <td></td> </tr> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td></td> <td>X</td> </tr> </table>		CONFIRMED		YES	NO		X	NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
CONFIRMED											
YES	NO										
	X										
MEMBERS SITTING				VOTE OF THE BOARD							
				HON	GEN						
				UOTHC	OTHER						
					DENY						
[REDACTED]					X						
[REDACTED]					X						
[REDACTED]					X						
[REDACTED]					X						
[REDACTED]					X						
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD							
A92.05, A92.15, A94.05, A94.53		A67.70		1	ORDER APPOINTING THE BOARD						
				2	APPLICATION FOR REVIEW OF DISCHARGE						
				3	LETTER OF NOTIFICATION						
HEARING DATE		CASE NUMBER		4	BRIEF OF PERSONNEL FILE						
01 01 31		FD01-00007			COUNSEL'S RELEASE TO THE BOARD						
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE						
					TAPE RECORDING OF PERSONAL APPEARANCE HEARING						
REMARKS											
Case heard at Washington, DC											
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											
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT								
[REDACTED]			[REDACTED]								
TO:			FROM:								
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMANDDR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002								

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 the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The Board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety which would justify a change of discharge.

The applicant's issues are listed in the attached brief.

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article **15** for wrongfully using Psilocybe mushrooms. The DRB carefully reviewed the mitigating circumstances the applicant described in her statement. If she can provide additional documented information to substantiate an issue, the applicant should consider exercising her right to make a personal appearance before the Board. If she should choose to exercise her right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments **as** well as any contributions to the community. 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. Applicant provided information for the Board to take into account the good things she did while in the service. The DRB took note of the applicant's duty performance as documented by her letters of recommendation and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

Issue 3. The applicant cited her desire to receive the **G.I.** Bill benefits **as** justification for upgrade. The DRB noted that when the applicant applied for these benefits, she signed a statement (DD Form 2366, on July 20, **1998**) that she understood she 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 AMN) MISSING DOCUMENTS

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 00/05/25 UP AFI 36-3208, para 5.54 (Drug Abuse). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 77/11/30. Enlmt Age: 20 5/12. Disch Age: 22 5/12. Educ: HS DIPL. AFQT: N/A. A-46, E-62, G-53, M-50. PAFSC: 2T131 - Vehicle Operations Apprentice. DAS: 98/10/30.

b. Prior Sv: AFRes 98/05/14 - 98/07/07 (1 month 24 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enld as A1C 98/07/08 for 4 yrs. Svd: 1 Yrs 10 Mo 18 Das, all AMS.

b. Grade Status: AMN - 00/01/27 (Article 15, 00/01/27)

c. Time Lost: none.

d. Art 15's: (1) 00/01/27, Ramstein AB, Germany - Article 112a. You did, between o/a 1 Oct 99 and o/a 31 Oct 99, wrongfully use Psilocybe mushrooms, a Schedule I controlled substance. Rdn to Amn, and a reprimand. (No appeal)
(No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: none.
(Discharged from Patrick AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (0) Mos (12) Das
TAMS: (1) Yrs (10) Mos (18) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 00/10/19.
(Change Discharge to Honorable)

Issue 1: I have attached my statement concerning the issues surrounding my discharge from the Air Force. (Document # 1) However, after you have read my account of what occurred surrounding my getting out of the military, please consider my complete military service. I was proud to be in the Air Force and I

served with distinction and honor for my country. I would have never willing put that in jeporady (sic). Due to the loss of my GI Bill, I now do not have the benefits that I joined the military for. I believe that the months of service with no other problems should account for a consideration of upgrade to Honorable.

ATCH

1. Applicant's Issues.
2. Character Reference.
3. Four Letters of Appreciation.
4. Two Certificates of Appreciation.
5. DD Form 214.

01/01/03/ia

Document #1

October 14, 2000

Issues:

The issue with me begins when I was at my boyfriend's house, [REDACTED], when OSI agents came to take him to base for questioning. I asked him why they wanted him and he told me not to worry about it, he'd be back. When he returned, he said don't worry about it, it doesn't concern you. So I figured he had done something wrong or knew of something I had no knowledge of. The next day at work I found out that not only was [REDACTED] brought in for questioning, so were two friends of mine, [REDACTED] and [REDACTED]. Later I found out [REDACTED]'s wife [REDACTED] was also questioned. Everybody was nervous and I stayed quiet and tried to pick up what I could about what was going on. At work they were all put on special duties and a special shift. What I could gather about what was going on was that [REDACTED] was using steroids and maybe [REDACTED] and [REDACTED] knew about it. But I didn't know this for a fact. As time went on I found out that [REDACTED] and [REDACTED] were in trouble for the use of illegal mushrooms, allegedly bought in Amsterdam. The exact details about the situation I wasn't sure of. They were warned not to discuss anything or they would go to the Mannheim prison.

After a few weeks I was called at work to go to the OSI office to answer some questions. So my Supervisor walked me over and he told me that if they make me feel uncomfortable or accuse me of anything, ask for a lawyer and don't say another word. I went in a little room and when the agents came in they read me my rights. The first thing they said after that was, "your name has been brought up for using 'shrooms". I asked for a lawyer. They asked for permission to get a drug test and search my dorm room and car. I granted permission and I took the test and they searched my room. I was clean and dropped off the list of individuals involved.

The day after talking with OSI, I went to obtain a lawyer. I was told I would have to be put on a waiting list and wouldn't get a lawyer on base. When I did get a lawyer he was at Mildenhall AB, England. Apparently [REDACTED] was involved with many others with different kinds of drugs and no one could share a lawyer. When I first talked with my lawyer, Captain [REDACTED] I was scared and had no real idea what was exactly going on. So I told him I don't know what's going on and I don't know what to do. He said to call him back when my Commander issues me an Article 15 and he'd take it from there.

Life, for the most part, returned to normal. I learned more about what was going on and just how much trouble [REDACTED] had gotten himself into. He was buying drugs from German dealers and I think, selling them on base. Where I came in was at a get together in a park by a lake.

One night, [REDACTED] and [REDACTED], [REDACTED] and I went out to this park to make a bon fire and drink beer. [REDACTED] had gone on an outing with his church at this park and brought up the idea of the bon fire. [REDACTED] and I went to get the beer and some snacks, while the rest gathered wood for the fire. When we returned they had the fire going and it was getting dark. We drank and ate the snacks, [REDACTED] and [REDACTED] brought some snacks that they brought in his book bag. [REDACTED] was always on some kind of diet to build muscle, so it didn't seem odd to me. He had a carton of mushrooms that looked like normal mushrooms to me and were packaged just like those in the commissary. Nobody made a big deal over them so nothing seemed out of the ordinary. The fact they might be illegal drugs didn't even cross my mind.

When I learned of the whole story and what exactly I was being charged with, I realized I had eaten some of the mushrooms. I had convinced myself I had unintentionally broken the law and even though I would have never done anything illegal on purpose, I would have to take responsibility for what I had done. So when I was faced with the Article 15, I told my lawyer I had eaten the mushrooms. I didn't tell him anything else. I didn't feel comfortable talking on the phone. He told me to accept the punishment. So I did accept the Article 15 without any response or rebuttal, which took all my Supervisors by a complete surprise. They thought I was innocent even though I never discussed any of this with them.

After excepting the Article 15 and we received our punishments [REDACTED] and I learned we would have to wait around before our discharge incase we can be any help against [REDACTED] in his trial. But none of us had any information about the rest of his dealings. Right before his trial I learned from [REDACTED] lawyer that the mushrooms we had weren't even illegal mushrooms. [REDACTED], apparently, knew this the whole time, but was restrained from telling the rest of us. We weren't allowed to openly discuss any of this with each other.

I called my lawyer and asked him if the fact that were not illegal mushrooms would be able to help even though I had already signed the Article 15. He said not really because I would have to prove I knew they weren't illegal mushrooms the entire time. I realized I couldn't prove that, because all I had was my word, and I felt that wasn't worth much anymore. Besides, this whole ordeal left me emotionally and physically worn. I just felt I had no strength left to fight any more.

With all of this over, I feel like I was just steam rolled. And when the smoke clears, I was discharged for nothing but being ignorant to how to defend myself. Like my Captain said, "if you've never been in trouble, how do you know what questions to ask and what to say?". I have never even been in the principals office in school, I had no experience in this type situation.

Please take this into consideration. And I thank you for your time.

Sincerely,

[REDACTED]
[REDACTED]



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFTWING (USAFE)

MEMORANDUM FOR 86 AW/CC

09 MAY 2000

FROM: 86 AW/JA

SUBJECT: Legal Review of [redacted] - Ann [redacted], 86 NS

1. I have reviewed the administrative discharge action against Ann [redacted], initiated on 5 May 00, Lt Col [redacted], 86 TRANS/CC, and it is legally sufficient to support discharge.

2. BASIS FOR THE ACTION: Administrative discharge action was initiated pursuant to AFI 36-3208, paragraph 5.54, based on the respondent's drug abuse. The worse characterization under paragraph 5.54 is under other than honorable conditions (UOTHC). Ann [redacted] discharge is based on her wrongful use of Psilocybe mushrooms, a Schedule I controlled substance, at or near the Kaiserslautern Military Community, Germany, between on or about 1 October 1999 and on or about 31 October 1999. For this action, she received nonjudicial punishment on 27 Jan 00. Punishment imposed consisted of reduction to the grade of airman with a new date of rank of 27 Jan 00 and a reprimand. This Article 15 was filed in her Unfavorable Information File.

3. MATTERS SUBMITTED BY THE RESPONDENT: Respondent conferred with the Area Defense Counsel on 5 May 00 and waived her right to submit statements in her behalf.

4. DISCUSSION:

a. The respondent's commander has recommended that the respondent be separated from the United States Air Force with a general discharge under AFI 36-3208, paragraph 5.54, for drug abuse. Her actions fit the definition of drug abuse of paragraph 5.54.

b. According to AFI 36-3208, paragraph 5.55.2.1, a member found to have abused drugs will be discharged unless the member meets all seven of the following criteria:

(1) Drug abuse is a departure from the member's usual and customary behavior;

(2) Drug abuse occurred as the result of drug experimentation (a drug experimenter is defined as one who has illegally or improperly used a drug for reasons of curiosity, peer pressure, or other similar reasons);

(3) Drug abuse does not involve recurring incidents, other than drug experimentation as defined above;

(4) The member does not desire to engage in or intend to engage in drug abuse in the future;

(5) Drug abuse under all the circumstances is not likely to recur;

(6) Under the particular circumstances of the case, the member's continued presence in the Air Force is consistent with the interest of the Air Force in maintaining proper discipline, good order, leadership, and morale; and,

(7) Drug abuse did not involve drug distribution.

c. The burden of proving that retention is warranted under the above seven circumstances is on the member. The respondent waived her right to submit statements and has made no attempt to prove retention is warranted. There is no evidence that she does not desire to engage in or intend to engage in drug abuse in the future, nor that drug abuse will not recur. Additionally, the respondent's continued presence in the Air Force is not consistent with the interest of the Air Force in maintaining proper discipline, good order, leadership, and morale because drug abuse is incompatible with military service. As such, I do not believe the member meets all seven of the criteria.

5. OTHER MATTERS: Before the respondent can be discharged, she must be found medically qualified for worldwide duty in accordance with AFI 36-3208, paragraph 6.3. Amn [REDACTED] had her medical appointment on 8 May 00 and processing should not be delayed to wait for the medical report. You may authorize the discharge, but it will not be executed until the medical report is complete.

6. CHARACTERIZATION OF SERVICE:

a. Characterization of service should be based on the quality of the member's service in the current enlistment. The respondent has over one year and ten months of military service. Her current enlistment began on 8 Jul 98 for a term of 4 years. The respondent has received no EPRs.

b. The service of an airman discharged for drug abuse may be characterized as honorable, general, or UOTHC. Since the respondent was not offered a board hearing when she was notified of the discharge action, a UOTHC is not authorized. Therefore, a general discharge is the worst characterization that she may receive under AFI 36-3208, paragraph 5.54.

c. A general characterization is warranted when an airman's service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.

d. In this case, the instance of drug abuse cited as the basis for this discharge action constitute significant negative aspects of the respondent's service. However, the nature of the respondent's actions is not such that a board of officers would likely recommend an UOTHC discharge. The commander took the respondent's statements into consideration and decided to continue with the discharge. The respondent's commander recommends a general discharge. I agree.

7. PROBATION AND REHABILITATION: Under AFI 36-3208, paragraph 7.2.6, airmen are not eligible for probation and rehabilitation if the reason for discharge is drug abuse.

8. ACTIONS WHICH MAY BE TAKEN: As the Special Court-Martial Convening Authority, you have the following options:

a. If you find the respondent meets the seven criteria for a waiver, forward the case file to 3 AF/CC recommending approval of the waiver;

b. Forward the case file to 3 AF/CC, recommending that the respondent be separated from the United States Air Force (USAF) with an honorable discharge;

c. Direct that the respondent be separated from the USAF with a general discharge;

d. Return the case file to the unit for processing **as an** administrative discharge board case; this would permit a UOTHC service characterization; or,

e. Find that there is not credible evidence **of** drug abuse and terminate this discharge action.

9. RECOMMENDATION: Direct that the respondent be separated from the USAF with a general discharge by signing Attachment 1.


Lt Col, USAF
Acting Staff Judge Advocate

Attachments:

- 1. Proposed Memo for 86 AW/CC
- 2. Discharge Package
- 3. Respondent's Documentation:
 - a. Legal Counsel Memorandum, 8 May 00
 - b. Receipt of Notification Memorandum, 5 May 00



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

5 May 00

MEMORANDUM FOR AMN J [REDACTED], [REDACTED], 86 TRANS

FROM: 86 TRANS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for *Drug Abuse*. The authority for this action is AFPD 36-32 and AFI 36-3208, Section H, paragraph 5.54. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.
2. My reasons for the action are that you did, at or near the Kaiserslautern Military Community, Germany, between on or about 1 Oct 99 and on or about 31 Oct 99, wrongfully use Psilocybe mushrooms, a Schedule I controlled substance. For these actions, you received nonjudicial punishment on 27 Jan 00 (Atch 1). Punishment imposed was reduction to the grade of airman with a new date of rank 27 Jan 00 and a reprimand. This Article 15 was filed in your Unfavorable Information File (UIF) on 2 Feb 00.
3. Copies of the documents to be forwarded to the separation authority in support of the recommendation are attached. The commander exercising special court martial jurisdiction, or a higher authority, will decide whether you will be discharged or retained in the USAF. If you are discharged, you will be ineligible for reenlistment in the USAF, and any special pay, bonus, or education assistance funds you have received may be subject to recoupment.
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 telephonically consult with Capt [REDACTED], Area Defense Counsel, RAF Lakenheatb, DSN [REDACTED] on 5 May 00 at 1430. You may consult civilian counsel at your own expense.
5. You have the right to submit statements on your behalf. Any statements you want the separation authority to consider must reach me NLT 10 May 00 at 0830 hours 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 submit statements in your behalf, your failure will constitute a waiver of your right to do so.

7. You must report in uniform with your medical records and an escort to the Ramstein Air Base Clinic, Physical **Exams**, Building **2182** on **8 May 00 at 0700** for the evaluation. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them.
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 or via the internet.


1, Lt Col, USAF
Commander

Attachments:

1. Supporting Documents: AF Form **3070**, Record of Nonjudicial Punishment Proceedings, **27 Jan 00**, with UIF Action
2. Airman's Receipt of Notification Memorandum