

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
[REDACTED]	AB	[REDACTED]

TYPE GEN	<input checked="" type="checkbox"/> PERSONAL APPEARANCE	RECORD REVIEW
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	[REDACTED]	[REDACTED]
NO		
X		

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

ISSUES A94.11	INDEX NUMBER A 67.70	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 HEARING	

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

REMARKS
Case heard at Dobbins ARB GA

Advise the applicant of the decision of the Board and the right to submit an application to the AFBCMR

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
INDORSEMENT	DATE: 120502

TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2001-0310

GENERAL: The applicant appeals for upgrade of his general discharge to honorable, for a reenlistment code that would permit him to reenter the military and a change to the narrative reason for which he left the military. The applicant appeared and testified before the Board with counsel at Dobbins ARB GA on November 21, 2002.

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The applicant's request to upgrade his general discharge to honorable, for a reenlistment code that would enable him to reenter the military and to change the narrative reason for his discharge is denied.

Issue: The applicant contends that he was unjustly separated from the Air Force based upon erroneous drug charges, that co-workers and supervisors ostracized him, and that he was detailed to perform the "worst work assignments". Careful review of the file and the evidence provided by the applicant failed to support his claims. Five different airmen reported the applicant smoked marijuana. Two related the applicant purchased marijuana and then shared it with others. In his testimony before the board, the applicant admitted that these airmen were his friends. He denied using drugs with them or even being aware they were using drugs. While he claims they concocted a story to implicate him in retaliation for their erroneous belief that he had turned them in, he could not explain why they would suspect him if he was unaware they were using drugs. When the applicant's misconduct was discovered, he testified his commander removed him from his duty section. For that reason, and not because he was being mistreated, the applicant became available to perform details around the base. When the applicant was offered nonjudicial punishment, he met with counsel and elected to accept the Article 15 rather than present his case to a court-martial. When he met with his commander to accept his punishment, he admitted that he had used marijuana. Based on the foregoing, the board could find neither an inequity nor an injustice which would justify granting relief in this case.

The Board also reviewed and considered the applicant's entire service record before making a decision.

CONCLUSIONS: The Discharge Review Board concludes 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 the full administrative due process.

In view of the foregoing findings the board further concludes there exists no legal or equitable basis for upgrade/change of reason for discharge and change of the RE code. 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

FD2001-0310

[REDACTED]
[REDACTED]
(Former AB) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a Gen Dish fr USAF 97/12/05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for HON Disch, Change the Reason for Discharge, and Change the RE Code.

2. OTHER FACTS:

a. See attached copy of Examiner's Brief dated 01/04/27.

b. The AFDRB reviewed case on 01/06/20 (non-appearance with counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 01/07/26. (Change Discharge to Honorable, Change the Reason and Authority, and Change the RE Code)

ISSUES ATTACHED TO BRIEF.

Atch

1. Examiner's Brief, 01/04/27.
2. Petitioner's Brief.

01/08/06/ia

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]
[REDACTED]
(Former AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 97/12/05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch, Change the Reason for Disch, and to Change RE Code.

2. **BACKGROUND:**

a. DOB: 76/12/16. Enlmt Age: 19 5/12. Disch Age: 20 11/12. Educ:HS DIPL. AFQT: N/A. A-90, E-36, G-39, M-37. PAFSC: 2T031 - Traffic Management Apprentice. DAS: 97/01/22.

b. Prior Sv: AFRes 96/05/16 - 96/08/27 (3 months 12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 96/08/28 for 4 yrs. Svd: 1 Yrs 3 Mo 8 Das, all AMS.

b. Grade Status: AB - 97/11/04 (Article 15, 97/11/04)

c. Time Lost: none.

d. Art 15's: (1) 97/11/04, Elmendorf AFB, AK - Article 112a. You did, on divers occasions, between o/a 01 Apr 97, and 30 Apr 97, wrongfully use marijuana. Rdn to AB. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: none.

(Discharged from Elmendorf AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (06) Mos (20) Das

TAMS: (01) Yrs (03) Mos (08) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/01/17.

(Change Discharge to Honorable, Change Reason and Authority for Discharge, and Change RE Code)

(Petitioner's Brief): Petitioner was, in error and unjustly, separated from the United States Air Force on December 5, 1997 for alleged use of marijuana. At the time of his separation, his DD Form 214 reflected a separation code of JKK,

a re-entry code of 2B and a narrative reason for separation reflecting

FD01-00123

"misconduct." As a result of the above stated entries on petitioners DD Form 214, petitioner is not eligible for enlistment in any branch of the Armed Services.

Petitioner did not use marijuana as alleged by the United States Air Force. Petitioner only admitted to the use of marijuana after being subjected to intolerable working and living conditions at Elmendorf Air Force Base in Alaska. These intolerable conditions included total ostracizing by co-workers and supervisors, assigning petitioner the worst work assignments and forcing the petitioner to resign his position as a YMCA coach. These conditions resulted from the mere allegation of marijuana use and continued over a six-month period while the allegations were being investigated and before the petitioner was ever charged. Being socially and geographically isolated at age 20 and being nearly 5000 miles from home, the petitioner felt that his only way out of this dilemma was to admit to the marijuana use in order to escape the intolerable conditions in the Air Force.

At the time the investigation was initiated, the petitioner voluntarily agreed to take a urinalysis test. The urinalysis test was taken at or near the time that the petitioner was alleged to have used marijuana. The results of the urinalysis test were **negative for any drugs**. Moreover, the only evidence of alleged marijuana use by the petitioner was the testimony of other service members who were using and distributing drugs. Petitioner can only surmise that the service members falsely accused the petitioner of marijuana use because they erroneously believed that the petitioner had informed on them (which he had not) or that they had something to gain by turning in the petitioner.

Petitioner would like the opportunity to reenlist as a reservist in one of the branches of the Armed Services. In order to do so, petitioner requires an upgrade of the separation code, the re-entry code and the narrative of these dd (sic) Form 214. Based upon the circumstances described in the petition and the documents attached hereto, petitioner respectfully request those upgrades.

ATCH

1. Petitioner's Affidavit.
2. Record of Investigation.
3. National Personnel Records Center File.

01/04/27/ia

PETITIONER'S BRIEF

1. Petitioner: [REDACTED]
2. Address: [REDACTED]
3. Petitioner's Representative: [REDACTED]
4. Relief Sought:

Petitioner seeks an upgrade of the separation code, the re-entry code and the narrative of his DD Form 214.

5. Basis for Relief:

Petitioner was, in error and unjustly, separated from the United States Air Force on December 5 1997 for alleged use of marijuana. At the time of his separation, his DD Form 214 reflected a separation code of JKK, a re-entry code of 2B and a narrative reason for separation reflecting "misconduct." As a result of the above stated entries on petitioners DD Form 214, petitioner is not eligible for enlistment in any branch of the Armed Services.

Petitioner did not use marijuana as alleged by the United States Air Force. Petitioner only admitted to the use of marijuana after being subjected to intolerable working and living conditions at Elmendorf Air Force Base in Alaska. These intolerable conditions included total ostracizing by co-workers and supervisors, assigning petitioner the worst work assignments and forcing the petitioner to resign his position as a YMCA coach. These conditions resulted from the mere allegation of marijuana use and continued over a six-month period while the allegations were being investigated and before the petitioner was ever charged. Being socially and geographically isolated at age 20 and being nearly 5000 miles from home, the petitioner felt that his only way out of this dilemma was to admit to the marijuana use in order to escape the intolerable conditions in the Air Force.

At the time the investigation was initiated, the petitioner voluntarily agreed to take a urinalysis test. The urinalysis test was taken at or near the time that the petitioner was alleged to have used marijuana. The results of the urinalysis test were **negative for any drugs**. Moreover, the only evidence of alleged marijuana use by the petitioner was the testimony of other service members who were using and distributing drugs. Petitioner can only surmise that the service members falsely accused the petitioner of

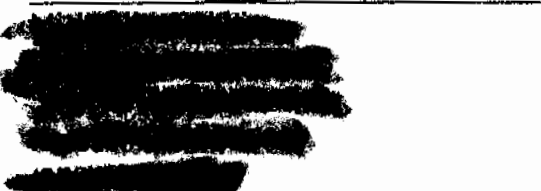
marijuana use because they erroneously believed that the petitioner had informed on them (which he had not) or that they had something to gain by turning in the petitioner.

Petitioner would like the opportunity to reenlist as a reservist in one of the branches of the Armed Services. In order to do so, petitioner requires an upgrade of the separation code, the re-entry code and the narrative of these dd Form 214. Based upon the circumstances described in the petition and the documents attached hereto, petitioner respectfully request those upgrades.

6. Exhibits

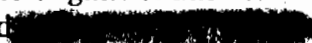
- a. Petitioner's Affidavit
- b. Record of Investigation
- c. National Personnel Records Center File

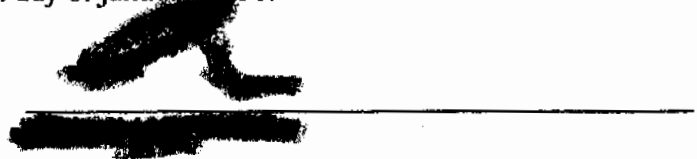
Respectfully submitted,



Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of this Petition was served by Federal Express to The Air Force Discharge Review Board , SAF/MIBR, 550-C Street West, Suite 40, Randolph AFB, TX 78150-4742 on this 18th day of January 2001.



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

DEC 2 1997

MEMORANDUM FOR 3 WG/CC

FROM: 3 WG/JA

SUBJECT: Legal Review - Administrative Discharge - [REDACTED]

1. [REDACTED] has been recommended for discharge by the 3rd Transportation Squadron Commander, pursuant to AFI 36-3208, paragraph 5.54, for misconduct based on drug abuse. The reasons set forth in the Commander's Recommendation for Discharge Letter, with accompanying documentation, are legally sufficient to support discharge action under this provision of the instruction. [REDACTED] is medically cleared for separation.

2. FACTS: The following event forms the basis for this discharge action:

Between on or about 1 Apr 97 and on or about 30 Apr 97, then [REDACTED] did, at or near Elmendorf Air Force Base, Alaska, on divers occasions, wrongfully use marijuana, as evidenced by an Article 15, dated 27 Oct 97, and an Unfavorable Information File (UIF) entry, undated.

3. Airmen subject to separation for drug abuse under AFI 36-3208, paragraph 5.54, may be discharged under honorable, general, or under other than honorable conditions. Airmen separated for drug abuse are not eligible for probation and rehabilitation.

4. After consulting counsel, [REDACTED] elected not to submit a statement for consideration. (See Tab 6.)

5. The 3rd Transportation Squadron Commander recommends a General Discharge.

6. ERRORS AND IRREGULARITIES: Airmen separated for drug abuse should usually be discharged under other than honorable conditions; however, [REDACTED] has no documented incidents of misconduct or drug abuse other than the Article 15 for marijuana use. Under these circumstances, a General Discharge is appropriate.

7. You may take the following actions in this case:

- a. Direct this action be discontinued and [REDACTED] be retained.
- b. Forward this case file to 11 AF/CC if you believe [REDACTED] should be separated from the United States Air Force with an Honorable Discharge.
- c. Direct [REDACTED] be separated from the United States Air Force with a General Discharge.

d. Direct [REDACTED] be retained for processing under Chapter 6, Section C (Board Hearing) if you determine he should be separated with an Under Other Than Honorable Conditions Discharge.

8. RECOMMENDATION: I recommend you discharge [REDACTED] from the United States Air Force under the provisions of AFI 36-3208, paragraph 5.54. I further recommend you approve a General Discharge. [REDACTED] is ineligible for P&R.

[REDACTED]
[REDACTED], Capt, USAF
Chief, Administrative Law

I concur.

Attachment:
Case File ([REDACTED])

[REDACTED]
[REDACTED], Colonel, USAF
Staff Judge Advocate

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

NOV 17 1997

MEMORANDUM FOR 3 TRNSS/LGTT [REDACTED]

FROM: 3 TRNSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct based on drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable, general, or under other than honorable conditions. I am recommending your service be characterized as general.

2. My reasons for this action are:

Between on or about 1 Apr 97 and on or about 30 Apr 97, you did, at or near Elmendorf Air Force Base, Alaska, on divers occasions, wrongfully use marijuana, as evidenced by an Article 15, dated 27 Oct 97, and an Unfavorable Information File (UIF) entry, undated.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you are 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, and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED], at Bldg 6-920, Rm 330 on 18 Nov 97 at 1400. 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 within three duty days after the date of this letter unless you request and receive an extension for good cause shown. I will forward any statements you provide 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.

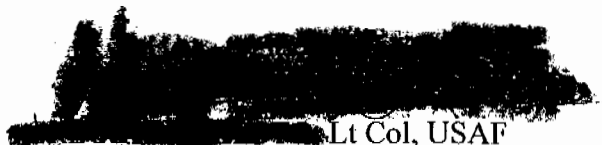
7. You have been scheduled for medical examinations. You must report to the 3rd Aerospace Medicine Squadron, Bldg 24-850 at _____ on _____ with your medical records and to the Family Practice Clinic at _____ on _____. You are to fast

(drink water only) for 14 hours, refrain from alcohol for 72 hours, and refrain from the use of tobacco products for 6 hours, prior to examination. Bring eyeglasses (and contact solution if using contacts) if applicable. You must be in uniform for these examinations.

8. You have been scheduled for a Transition Assistance Program briefing. You must report to the Family Support Center at 1445 on 18 NOV 97. You have also been scheduled for a TMO Household Goods Shipment preprocessing briefing. You must report to Bldg 2-900 (People Center), Rm 247 at 0800 on 21 NOV 97. You must be in uniform for all appointments.

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 your Squadron Orderly Room.

10. The discharge authority will make the findings and recommendations required under 10 U.S.C. 2005(g).


Lt Col, USAF
Commander

Attachment:
Article 15, 27 Oct 97