

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN	
[REDACTED]		AB	[REDACTED]	
TYPE BCD	X PERSONAL APPEARANCE	RECORD REVIEW		
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	NO			
X		NONE		
MEMBERS SITTING		VOTE OF THE BOARD		
		HON	GEN	UOTHC
[REDACTED]			X	
[REDACTED]			X	
[REDACTED]			X	
[REDACTED]				X
[REDACTED]			X	
ISSUES A91.06, A90.01 A01.31		INDEX NUMBER A 68.00		
HEARING DATE 111802		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 RATIONALE 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		SIGNATURE OF BOARD PRESIDENT		
[REDACTED]		[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		

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2001-0494

GENERAL: The applicant appeals for upgrade of his Bad Conduct Discharge to Honorable. The applicant appeared and testified before the Board without counsel, at Dobbins ARB GA on November 18, 2002. The applicant's sister, [REDACTED] and father, [REDACTED] were present at the hearing.

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 Bad Conduct Discharge to fully honorable is denied but the board finds that upgrade to a general discharge is appropriate. While there is neither an inequity nor an impropriety concerning the applicant's discharge, the board believed an upgrade to general is appropriate as a matter of clemency.

Issues 1 and 2: The applicant contends relief is appropriate because his service prior to his court-martial is exemplary and because agents of the Air Force Office of Special Investigations used inappropriate tactics during their investigation of his drug activity. Because the applicant received a punitive discharge, the board may only upgrade the character of his service if it decides clemency is warranted (10 USC 1553). For that reason, the board declined to grant relief based upon these issues.

Issue 3: The applicant contends an upgrade is appropriate based upon his accomplishments, remorse, and impact the conviction has had on his life for the past 15 years. The applicant indicated his court-martial conviction seriously affected his life, his employment opportunities, and served to encourage him to "reconstruct" himself. He states he has not been involved with illegal drugs since his separation and is gainfully employed as a financial advisor. Based upon the applicant's evident remorse, his relative youth at the time of the offense, the nature of the misconduct and his professional accomplishments since his discharge, the board concluded clemency is appropriate in this case. While an honorable discharge is not appropriate given the nature of his crime, the board found upgrade to a general discharge to be appropriate.

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

CONCLUSIONS: Clemency is appropriate in this case and the board recommends the applicant's punitive separation be upgraded to a general discharge.

Attachment:

Examiner's Brief

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

[REDACTED]
(Former AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 87/03/25 UP Special Court Martial Order No.19 (Conviction by Court Martial). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 65/03/30. Enlmt Age: 17 5/12. Disch Age: 21 11/12. Educ:HS DIPL. AFQT: N/A. A-80, E-55, G-55, M-35. PAFSC: 90250 - Medical Service Specialist. DAS: 83/11/18.

b. Prior Sv: (1) AFRes 82/09/16 - 83/07/10 (9 months 25 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 83/07/11 for 6 yrs. Svd: 03 Yrs 08 Mo 15 Das, all AMS.

b. Grade Status: AB - 86/03/13 (SPCMO # 19, 86/05/21)
SRA - 85/12/23
A1C - 83/08/23

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: Special Court Martial Order No.19 - 86 May 21

CHARGE I (redesignated Charge): Article 112a. (Guilty).

Specification 1: Wrongfully use marijuana, on divers occasions between on or about 01 Nov 84, and on or about 05 Dec 85. (Guilty)

Specification 2: Wrongfully distribute marijuana, on or about 26 Oct 85. (Guilty).

Specification 3: Wrongfully distribute marijuana, on or about 15 Nov 85. (Guilty).

CHARGE II: Article 80. (withdrawn after arraignment).

Specification: Attempt to wrongfully distribute cocaine, on or about 26 Oct 85 (withdrawn after arraignment). Sentence adjudged 13 Mar 86: Bad conduct discharge and reduction to AB.

g. Record of SV: 83/07/11 - 84/07/10 Lackland AFB 8 (Annual)
84/07/11 - 85/07/10 Lackland AFB 9 (Annual)
85/07/11 - 86/03/29 Lackland AFB 7 (CRO)

(Discharged from Lackland AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (04) Yrs (06) Mos (10) Das
TAMS: (03) Yrs (08) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/08/16.
(Change Discharge to Honorable)

Issue 1: Prior to Court Martial, military service & performance is exemplary. Note APRs.

Issue 2: Court documents clearly show that coercion was the operative tactic of the OSI agent. The panel can see without doubt that I was approached several times prior to any involvement in the guise of "helping" a buddy of a buddy.

Issue 3: This Court-Martial was taken very seriously by myself & family. This Court-Martial is considered as a (?) point in my overall view of life. Consequently I am not and haven't been in any such adversity. I've used this experience to reconstruct myself into a top professional in my field. I choose not to waste the Panel's time with supporting documents. I believe that a hearing before the appropriate will result in a consideration for an upgrade to current discharge.

ATCH
none.

02/02/07/ia

DEPARTMENT OF THE AIR FORCE
WILFORD HALL USAF MEDICAL CENTER (AFSC)
Lackland Air Force Base, Texas 78236-5300

Special Court-Martial Order No. [REDACTED] Before a special court-martial which convened at Lackland Air Force Base, Texas pursuant to Special Order [REDACTED], this headquarters, dated [REDACTED], was arraigned and tried:

[REDACTED], PR207-55-7077, United States Air Force, [REDACTED]

The accused was arraigned on the following offenses and the following findings or other dispositions were reached:

CHARGE I (redesignated Charge): Article 112a. (Guilty).

Specification 1: Wrongfully use marijuana, on divers occasions between on or about 1 November 1984, and on or about 5 December 1985. (Guilty).

Specification 2: Wrongfully distribute marijuana, on or about 26 October 1985. (Guilty).

Specification 3: Wrongfully distribute marijuana, on or about 15 November 1985. (Guilty).

CHARGE II: Article 80 (withdrawn after arraignment).

Specification: Attempt to wrongfully distribute cocaine, on or about 26 October 1985 (withdrawn after arraignment).

The findings of guilty as to Specifications 1, 2, and 3 of the redesignated Charge and the redesignated Charge were based on the accused's pleas of guilty. The accused pleaded not guilty to the Specification of Charge II and Charge II which was withdrawn after arraignment.

SENTENCE

The members adjudged the following sentence on 13 March 1986:

To be discharged from the service with a bad conduct discharge and to be reduced to the grade of airman basic (E-1).

ACTION

ACTION OF THE CONVENING AUTHORITY:

DEPARTMENT OF THE AIR FORCE, WILFORD HALL USAF MEDICAL CENTER (AFSC),
Lackland Air Force Base, Texas 78236-5300, 21 MAY 1986

In the case of [REDACTED] United States Air Force, [REDACTED], the sentence is approved and, except for the part of the sentence extending to a bad conduct discharge, will be executed.

[REDACTED]
Colonel, USAF, MC
Commander

FOR THE COMMANDER

[REDACTED]
Colonel, USAF
Staff Judge Advocate

DISTRIBUTION:

- 1 - [REDACTED], Lackland AFB, TX 78236-5300
- 1 - [REDACTED], HQ USAF Trial Judiciary, 3d Cir, Randolph AFB TX 78150-5000, MJ
- 1 - [REDACTED], HQ AFMTC/JA, Lackland AFB TX 78236-5000, TC
- 1 - [REDACTED], 6960 ESW/JA, Kelly AFB, TX 78243-5000, ATC
- 1 - [REDACTED], HQ USAF Judiciary, 3d Cir, Lackland AFB TX 78236-5000, DC
- 1 - WHMC/SG-1, Lackland AFB TX 78236-5300
- 3 - 6581 MSS/CC, Lackland AFB TX 78236-5300
- 1 - 6580 MSG/CC, Lackland AFB TX 78236-5300

- 3 - HQ AFMTC/ACFPM, Lackland AFB TX 78236-5000
- 4 - 6570 ABG/DPMQA, Brooks AFB TX 78235-5000
- 1 - ~~DLAA~~ 6570 ABG/DPMQS, Lackland AFB TX 78236-5000
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