

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 15px;"></div>		GRADE AMN	AFSN/SSAN <div style="background-color: black; width: 80px; height: 15px;"></div>
TYPE GEN	PERSONAL APPEARANCE		X RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NO		
	X		
MEMBERS SITTING		VOTE OF THE BOARD	
		HON	GEN
		UOTHC	OTHER
		DENY	
<div style="background-color: black; width: 100%; height: 15px;"></div>			X
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ISSUES A94.05, A01.13, A01.39, A93.09, A92.37		INDEX NUMBER A66.00	
HEARING DATE 02-06-26		CASE NUMBER FD2002-0038	
		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 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			
SIGNATURE OF RECORD <div style="background-color: black; width: 100%; height: 40px;"></div>		SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 40px;"></div>	
INDORSEMENT		DATE: 02-06-26	
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

FD2002-0038

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant was offered a personal appearance before the Discharge Review Board 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 that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant was discharged for misconduct, namely drug abuse, and received an under other than honorable conditions characterization of service. Member received an Article 15 for wrongful use of marijuana. This was based on a urinalysis, which came back positive for the presence of THC at 61ng/ml, well above the above the DoD cut-off level of 15 ng/ml. Furthermore, although not used as a basis for the discharge, member's record included another incident of misconduct. While driving under the influence of alcohol with a blood alcohol content of .24, he caused a major motor vehicle accident wherein he seriously damaged several cars parked in a residential area, as well as injuring himself. Applicant now contends the discharge was too harsh because it was based on one isolated incident that he now states he didn't commit, and for which he should not be indefinitely punished. He also notes he was undergoing personal problems, and didn't trust his defense counsel's advice. At the time of the discharge member waived his right to submit matters in his own behalf. He also submitted an unconditional waiver of his right to a board hearing. Furthermore, at the time of the discharge, the Air Force's drug policy was well publicized and members were continually made aware that illegal drug use was not tolerated. The Board noted that drug abuse is not compatible with Air Force standards; the seriousness of member's misconduct and record of other misconduct outweighs the applicant's otherwise acceptable service during the period of enlistment under review.

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

[REDACTED]
[REDACTED]
(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 88/02/17 UP AFR 39-10, para 5-49c (Drug Abuse). Appeals for Honorable Disch. - -

2. **BACKGROUND:**

a. DOB: 63/05/15. Enlmt Age: 20 3/12. Disch Age: 24 9/12. Educ: HS DIPL. AFQT: N/A. A-64, E-96, G-96, M-99. PAFSC: 12250 - Aircrew Life Support Specialist. DAS: 87/09/15.

b. Prior Sv: none.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 83/08/25 for 4 yrs. Svd: 4 Yrs 05 Mo 23 Das, all AMS.

b. Grade Status: AB - 88/01/27 (Article 15, 88/01/27)
Sgt - 87/06/01
SrA - 86/06/25
A1C - 84/02/25

c. Time Lost: none.

d. Art 15's: (1) 88/01/27, Hill AFB, UT - Article 112a. You did, **within** the State of Utah, between on or about 9 Nov 87 and 13 Nov 87, wrongfully use marijuana. Reduction fo AB. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 83/08/25 - 84/08/24 Minot AFB 9 (Annual)
84/08/25 - 85/08/24 Minot AFB 8 (Annual)
85/08/25 - 86/08/24 Barksdale AFB 9 (Annual)
86/08/25 - 87/05/20 Barksdale AFB 9 (CRO)

(Discharged from Hill AFB)

h. Awards & Decs: AFOUA, AFGCM, AFLSAR, AFTR.

i. Stmt of Sv: TMS: (04) Yrs (05) Mos (23) Das
TAMS: (04) Yrs (05) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/01/17.

(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Result of Urinalysis Testing.
3. Statement of Support.
4. Four Aiman Performance Reports.

a.

02/01/17/ia

ISSUES

- 1) OUTSTANDING AIRMAN FOR MORE THAN FOUR YEARS.
 - a) RESPONSIBLE FOR "ISSUE ON DEMAND" OF AIRCREW CHEMICAL WARFARE EQUIPMENT.
 - b) PACKED CHEMICAL WARFARE EQUIPMENT FOR KC-10 CREWS REFUELING THE FBII'S AGAINST LIBYA
 - c) DISTINGUISHED GRADUATE NCO PREPATORY CLASS.

PRIOR TO THE EVENTS OF NOV 1987, I WAS A REMARKABLE AIRMAN IN ALL ASPECTS OF MY MILITARY SERVICE. PLEASE REVIEW COPIES OF MY AIRMAN PERFORMANCE REPORTS WHICH ARE ATTACHED.

2) STIGMA

THE STIGMA WHICH IS ASSOCIATED TO A OTHER THAN HONORABLE CONDITION DISCHARGE IS TO SEVERE AND UNJUST FOR THE NATURE OF THE ALLEGED OFFENSE. FOR THE PAST 14 YEARS I HAVE BEEN DENIED EMPLOYMENT AND HAVE AVOIDED EVEN APPLYING FOR JOBS I WAS QUALIFIED FOR BECAUSE OF THIS. AT THIS TIME I BELIEVE I HAVE PAID MORE THAN ENOUGH FOR SOMETHING I DID NOT DO.

- 3) THEREFORE I SUBMIT TO THE REVIEW BOARD THAT THE RECEIPT OF AN OTHC DISCHARGE

(CONTINUED)
1 of 3

ARE INEQUITABLE AND UNJUST. AT THE TIME IN NOV 1987 I CONSENTED TO THE PROCEEDINGS OUT OF FRUSTRATION. AT THIS TIME I WAS IN THE MIDST OF PREPARATIONS FOR DIVORCE AND CUSTODY HEARINGS WHICH WERE UPCOMING IN TEXAS.

IN ADDITION I WAS NOT CONFIDENT OF THE ABILITY OF COUNCIL I RECEIVED FROM (ADC).

I TOOK A SELF-DEFEATING ATTITUDE, AND RATHER THAN RISK THE POSSIBILITY OF LOSING IN A GENERAL COURT MARTIAL I WOULD JUST SIGN THE PAPERS AND GO HOME.

ALTHOUGH IT WAS MY DECISION AND KNOWING I WAS BEING WRONGFULLY ACCUSED, I ACCEPTED ADVICE OF ADC COUNCIL TO

"JUST TAKE THE DISCHARGE, RATHER THAN RISK A TRIP TO LEVENWORTH." I HONESTLY FELT THAT SOMEHOW THIS WAS JUST A TACTIC TO AVOID PAYING ME THE 22 THOUSAND DOLLAR REENLISTMENT BONUS THAT WOULD BE DUE ME IN JAN 1988. WITH THESE THOUGHTS AND A SELF-DEFEATED ATTITUDE, NOT TO MENTION MY LACK OF CONFIDENCE IN ADC COUNCIL, IMPULSIVELY I TOOK THE DISCHARGE.

THE REASONS I COME BEFORE THE BOARD NOW AND ASK YOU TO UPGRADE MY DISCHARGE TO HONORABLE IS THREEFOLD. I WOULD LIKE TO BE ABLE TO SEEK EMPLOYMENT WITHOUT THE STIGMA OF AN OTHC DISCHARGE

(CONT.)
2 OF 3

BEING A DETERMINING FACTOR. I WOULD ALSO LIKE TO BE ABLE, IF THE OPPORTUNITY AROSE, TO APPLY FOR JOBS REQUIRING A SECURITY CLEARANCE. LASTLY, I WOULD LIKE AND FEEL IT TO BE FAIR AND JUST FOR AVAILABILITY OF MY BENEFITS TO BE RESTORED.

I PRAY THAT THE REVIEW BOARD CONSIDER ALL THE ATTACHED DOCUMENTS IN FIND IN FAVOR OF UPGRADING MY DISCHARGE TO HONORABLE.

SINCERELY




FD2002-0038

**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS OGDEN AIR LOGISTICS CENTER (AFLC)
HILL AIR FORCE BASE, UTAH 84056-5990**

REPLY TO
ATTN OF

JAM-MJ (Captain [REDACTED])

2 February 1988

SUBJECT

AFR 39-10 Involuntary Discharge - Airman Basic [REDACTED], FR [REDACTED],
388 AGS (TAC)

TO

2849 ABG/DPM

1. We have reviewed the referenced action in accordance with AFR 39-10, paragraph 6-12a (1), and consider it factually, procedurally and legally sufficient to sustain a finding that the respondent committed a serious offense, as contemplated by AFR 39-10, paragraph 5-49c.
2. The factual basis for this action is the initiating commander's administrative determination that the respondent used marijuana in November 1987.
3. The statutory basis for this action is Title 10, United States Code, Section 1169.
4. The initiating commander recommends that the respondent be discharged under other than honorable conditions. The respondent submitted an unconditional waiver of his right to a discharge board.
5. In accordance with AFR 39-10, paragraph 6-17, the base commander is the board convening authority. As such, his options are to: (a) reject the waiver and order a board to be convened; (b) recommend acceptance of the waiver and forward the case file to the separation authority, with a further recommendation for an honorable, general or under other than honorable conditions discharge, with or without probation and rehabilitation, with reasons for the recommendation; (c) direct that the action be discontinued; or (d) direct reinitiation for further processing under another section of AFR 39-10.
6. Under AFR 39-10, paragraph 6-19, the center commander is the separation authority. If the base commander recommends acceptance of the unconditional waiver, the center commander's options are to: (a) reject the unconditional waiver; (b) direct retention; (c) accept the unconditional waiver and order an honorable, general or under other than honorable conditions discharge with or without probation and rehabilitation; or (d) direct reinitiation for further processing under another section of AFR 39-10.
7. We recommend the convening authority forward the case file to the separation authority for approval of the unconditional waiver with a discharge under other than honorable conditions, without probation and rehabilitation. While the respondent's use of marijuana could have resulted in court-martial charges, we perceive no interest of justice or discipline that could not be

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adequately served by the respondent's immediate removal from the Air Force with the worst administrative discharge possible.

8. There is no indication probation and rehabilitation would serve any useful purpose at this late date.

9. We note no administrative errors of legal significance.

[REDACTED], Colonel, USAF
Staff Judge Advocate

1 Atch
Case File



DEPARTMENT OF THE AIR FORCE
388TH AIRCRAFT GENERATION SQUADRON (TAC)
HILL AIR FORCE BASE, UTAH 84056-5000

REPLY TO
ATTN OF: CC

27 JAN 1988

SUBJECT: Letter of Notification - Board Hearing

TO: AB [REDACTED], FR [REDACTED]
388th Aircraft Generation Squadron

1. I am recommending your discharge from the United States Air Force for drug abuse. The authority for this action is AFR 39-10, paragraph 5-49c. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is your wrongful use of marijuana as evident by the following:

a. Between on or about 9 November and 13 November 1987, you wrongfully used marijuana for which you received an Article 15 on 27 Jan 88.

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.

4. You have the right to:

a. Consult legal counsel.

b. Present your case to an administrative 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. You have been scheduled for a medical examination. You must report to USAF Hospital Hill, physical exam section, at 0645 on 2 Feb 88.

6. Military legal counsel, Capt [REDACTED], Bldg 1278, ext 72940, has been obtained to assist you. An appointment has been scheduled for you to consult him on 1 Feb 88, at 0830 hours, Bldg 1278. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military


Readiness is our Profession

service and s reasonably available as determined according to AFM 111-1. 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.

7. 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.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the 388 AGS Orderly Room.

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


Capt, USAF
Commander, Squadron 5

1 Atch

1. Derogatory data contained in
letter of notification