

MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
ISSUES A92.35	INDEX NUMBER A67.70	EXHIBITS SUBMITTED TO THE BOARD				
		1	ORDER APPOINTING THE BOARD			
		2	APPLICATION FOR REVIEW OF DISCHARGE			
		3	LETTER OF NOTIFICATION			
HEARING DATE 02 06 21	CASE NUMBER FD2002-0046	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			
SIGNIFICANT ISSUES 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 DEPUTY SECRETARY			SIGNATURE OF BOARD PRESIDENT			
[REDACTED]			[REDACTED]			
INDORSEMENT			FROM			DATE: 02 06 21
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 COMMAND DR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7003			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0046

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) (HGH A1C)

1. MATTER UNDER-REVIEW: Appl rec'd a GEN Disch fr USAF 95/09/08 UP AFI 36-3208, para 5.54 (Drug Abuse). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 74/11/05. Enlmt Age: 18 2/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-65, E-48, G-59, M-39. PAFSC: 3P031 - Security Apprentice. DAS: 95/05/16.

b. Prior Sv: (1) AFRes 93/01/14 - 93/02/08 (25 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 93/02/09 for 4 yrs. Svd: 02 Yrs 07 Mo 00 Das, all AMS

b. Grade Status: AMN - 95/07/26
A1C - 94/06/19

c. Time Lost: none.

d. Art 15's: (1) 95/07/26, Nellis AFB, NV - Article 112a. You did, between on or about 8 May 95, wrongfully use methamphetamines. Reduction to Amn, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 93/02/09 - 94/10/08 Bolling AFB 5 (Initial)
94/10/09 - 95/03/22 Bolling AFB 3 (CRO)

(Discharged from Nellis AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (02) Yrs (07) Mos (25) Das
. TAMS: (02) Yrs (07) Mos (00) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/01/24
(Change Discharge to Honorable)

Issue 1: I believe my discharge was inequitable because it was based on one

FD2002-0046

isolated incident in 24 months of service with no other adverse action

ATCH
none.

02/05/14/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS USAF WEAPONS AND TACTICS CENTER (ACC)
NELLIS AIR FORCE BASE, NEVADA

22 AUG 1995]

MEMORANDUM FOR 554 SPTG/CC

FROM: JA

SUBJECT: Legal Review of Administrative Discharge Proceedings Under AFI
 36-3208, Paragraph 5.54 - Amn [REDACTED] 554 SPOF

1. Background: On 17 Aug 95, the Squadron Commander, 554th Security Police Operational Flight, recommended that the respondent Amn [REDACTED] be discharged for drug abuse under AFD 36-32 and AFI 36-3208, paragraph 5.54, with a general service characterization and no opportunity for probation and rehabilitation (P&R). The case is being processed by notification procedure. As the separation authority, you have the following alternatives:

- a. Direct that the respondent be retained;
- b. Recommend to the general court-martial convening authority that the respondent receive an honorable service characterization, with or without P&R;
- c. Direct that the respondent be discharged with a general service characterization, with or without P&R; or,
- d. Direct reinitiation of this case IAW AFI 36-3208, Chapter 6, Section C, Board Hearing or Waiver, if you believe an under other than honorable conditions service characterization is warranted.

2. Facts:

a. For the Government: A preponderance of the evidence establishes that the following incident occurred during the respondent's current enlistment:

<u>Date</u>	<u>Incident</u>	<u>Action</u>
8 May 95 - 15 May 95	Wrongful use of methamphetamines	Article 15, 31 Jul 95

b. For the Respondent: The respondent is a 20 year-old airman with 2 years and 6 months of active military service. He has received two performance reports with the overall ratings of 3 and 5. He is entitled to wear the AF Training Ribbon and National Defense Service Medal. His test scores are: Admin-65, Elec-48, Gen-59, Mech-39. Respondent consulted military legal counsel and submitted statements for your consideration.

c. This information may be considered to determine whether the respondent is subject to discharge, whether he should be discharged, and if discharged, the character of service.

3. Errors and Irregularities: There are no errors or irregularities prejudicial to the substantive rights of the respondent. This legal review is contingent upon the respondent being given a physical exam and being found qualified for world-wide duty.

4. Conclusions:

a. The file has been prepared in substantial compliance with AFI 36-3208 and is legally sufficient.

b. A member is subject to discharge for drug abuse to include illegal, wrongful, or improper use, possession, sale, transfer, or introduction onto a military installation of any controlled substance. In this case, respondent admitted to the use of methamphetamines and accepted nonjudicial punishment. Therefore, he is subject to discharge for drug abuse. The serious nature of this incident also shows that the respondent should be discharged.

c. Respondent has submitted a statement from defense counsel supporting his request to remain in the Air Force. In this statement, IAW AFI 36-3208, when a commander has information indicating a member is subject to discharge for drug abuse, he must evaluate the specific circumstances of the offense, the member's records, and the member's potential for future service before taking action to either initiate discharge action or request a waiver of discharge. In this case, 554 SPOF/CC did consider these factors and made the decision to initiate discharge.

d. Service may be characterized as under other than honorable conditions (UOTHC) only if the respondent is given an opportunity for a hearing by an administrative discharge board. The service of a member discharged for misconduct may be characterized as honorable only if the member's record has been so meritorious that any other characterization would be clearly inappropriate. A general characterization is warranted if the negative aspects of an airman's conduct or performance outweigh other aspects of the airman's military record. In this case, due to the respondent's cooperation with AFOSI, his

commander did not pursue court-martial action. However, the respondent's commander feels the member should be discharged but does not recommend he receive an UOTHC service characterization. The seriousness of the incident by the respondent substantially outweighs any positive aspects of his military service record. Thus, the general service characterization recommended by the respondent's squadron commander is warranted and appropriate.

e. IAW AFI 36-3208, paragraph 7.2.6, the respondent is not eligible for P&R because the basis for discharge is drug abuse.

5. Recommendation: I recommend that you approve the respondent's discharge from the United States Air Force with a general characterization, without P&R.


Assistant Staff Judge Advocate

I concur.


Colonel, USAF
Staff Judge Advocate

DEPARTMENT OF THE THE AIR FORCE
554TH SECURITY POLICE OPERATIONS FLIGHT (ACC)
NELLIS AIR FORCE BASE, NEVADA

07 AUG 1995

MEMORANDUM FOR Amn [REDACTED] 554 SPOF

FROM: CC

SUBJECT: Notification Memorandum - Administrative Discharge Under AFI 36-3208

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, 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 that your service be characterized as general.
2. My reason for this action is: Between on or about 8 May 95 and on or about 15 May 95, you wrongfully used methamphetamines, for which you were punished under Article 15, UCMJ on 26 Jul 95.
3. Copies of the documents to be forwarded to the separation authority in support of this 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 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.
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 the Area Defense Counsel at Bldg 625 (Old Hospital) on 8 Aug 95 at 1500 hours. 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 by 10 Aug 95 at 1200 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 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 a medical examination at the 554th Medical Group on 10 Aug 95 at 0800.
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 Unit Orderly Room.
9. Execute the attached acknowledgment and return it to me immediately.


Command

Maj, USAF

Attachments:

1. Article 15, 31 Jul 95
2. (2) EPRs