

X PERSONAL APPEARANCE

RECORD REVIEW

COUNSEL

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES NO
X

[REDACTED]

AML

MEMBERS SITTING

VOTE OF THE BOARD

HON	GEN	UOHC	OTHER	DENY
X*+				
X*+				
				X
X+				
X*+				

ISSUES
A94.06

INDEX NUMBER
A67.70

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

HEARING DATE
15 AUG 02

CASE NUMBER
FD2002-0065

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.

+ Change reason and authority for the discharge to Secretarial Authority, SPD: JFF

* Upgrade RE Code.

Advise applicant of the decision of the Board and right to apply to the BCMR.

SIGNATURE OF RECORDER

SIGNATURE OF BOARD PRESIDENT

[REDACTED]

[REDACTED]

INDORSEMENT

DATE: 15 AUG 02

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, 3RD FLOOR
ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0065

GENERAL: The applicant appeals for upgrade of discharge to Honorable, to change the reason for the discharge, and to change his reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, MD on August 15, 2002. The following witness also testified on the applicant's behalf: Ms [REDACTED] (his Mother)

The following additional exhibits were submitted at the hearing: Exhibit 5: Applicant's issues.

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

FINDINGS: The discharge is upgraded to Honorable, and the reason for discharge is changed to Secretarial Authority. However, the RE Code will not be changed.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received a General discharge for Misconduct – Drug Abuse. He received a Letter of Reprimand for wrongfully using marijuana. After hearing his personal testimony, and reviewing the information contained in the record, the Board concluded there was sufficient mitigation and extenuation to substantiate upgrade of the discharge and to change the reason for the discharge. The Board did not however agree to change applicant's reenlistment code.

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.

However, in view of the foregoing findings, the board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable and Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 02/01/24 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 80/08/04. Enlmt Age: 18 8/12. Disch Age: 21 5/12. Educ: HS DIPL. AFQT: N/A. A-86, E-69, G-72, M-58. PAFSC: 2A653 - Aircrew Egress Systems Journeyman. DAS: 98/10/21.

b. Prior Sv: (1) AFRes 98/04/07 - 98/07/08 (3 months 4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 98/07/09 for 4 yrs. Svd: 03 Yrs 06 Mo 16 Das, all AMS.

b. Grade Status: SRA - 01/06/05
A1C - 99/11/09
AMN - 99/01/09

c. Time Lost: none.

d. Art 15's: none.

e. Additional: LOR, 18 DEC 01 - Drug abuse.

f. CM: none.

g. Record of SV: 98/07/09 - 00/03/08 Seymour Johnson AFB 5 (Initial)
00/03/09 - 01/03/08 Seymour Johnson AFB 4 (Annual)

(Discharged from Seymour Johnson AFB)

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

i. Stmt of Sv: TMS: (03) Yrs (09) Mos (18) Das
TAMS: (03) Yrs (06) Mos (16) Das

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

Issue 1: My discharge was inequitable because it was based on an isolated incident in 42 months of service with no other adverse action. I submitted a search of my home, vehicle, and a urinalysis. I also had a urinalysis in the accused time frame, late Jan 01. Also, I am currently trying to join the -----

Police Department and my General Discharge is the one thing stopping my process. I feel that the reason I was discharged on a Letter of Reprimand is that it takes away my right to fair trial and lack of evidence against myself.

ATCH

1. DD Form 214.
2. Four Character Statements.
3. Two Enlisted Performance Reports.
4. Letter of Reprimand, 18 Dec 01.
5. Request for Reconsideration - Letter of Reprimand, 18 Dec 01.
6. Response to Letter of Reprimand.
7. Personal Statement.

02/03/28/ia

b. Characterization of Service: I concur with the commander's recommendation of a general discharge. According to AFI 36-3208, Paragraph 5.48.4, an honorable characterization is appropriate in a discharge for misconduct when "the member's record has been so meritorious that any other characterization would be clearly inappropriate." In such cases, the GCM convening authority approves the service characterization. On the other hand, a general discharge is warranted, according to paragraph 1.18.2, when "significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record." [REDACTED] wrongful abuse of drugs outweighs the positive aspects of his service; therefore, a general discharge is appropriate.

c. Probation and Rehabilitation: Members approved for discharge for drug abuse are not eligible for probation and rehabilitation in accordance with AFI 36-3208, Paragraph 7.2.6.

6. LEGAL SUFFICIENCY: This case file is legally sufficient, contingent upon a finding that the respondent is medically qualified for worldwide duty.

7. OPTIONS: As the separation authority, you have the following options in this case:

a. Retain the respondent; or

b. Approve separation and discharge the respondent with a general discharge without probation and rehabilitation; or

c. Approve separation and recommend to the 9 AF(P)/CC that the respondent be discharged with an honorable discharge without probation and rehabilitation; or

d. If you believe an under other than honorable conditions (UOTHC) discharge is appropriate, return the case file to the squadron commander and direct processing by administrative board procedures IAW AFI 36-3208, paragraph 6.13.

8. RECOMMENDATION: That you approve the separation of [REDACTED] from the United States Air Force with a general discharge, without probation and rehabilitation, by signing the attached memorandum. I also recommend that you deny the request for a personal appearance by [REDACTED]. I have prepared an additional memorandum indicating your decision in this matter for your signature.

[REDACTED]
[REDACTED] USAF
Staff Judge Advocate

Attachment:
Case File [REDACTED]



DEPARTMENT OF THE AIR FORCE

4TH FIGHTER WING (ACC)
SEYMOUR JOHNSON AIR FORCE BASE NC

PD 2002-0065

10 JAN 2002

MEMORANDUM FOR [REDACTED], 4 CRS

FROM: 4 CRS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically drug abuse. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. Pursuant to table 1.3 and paragraph 5.48 of AFI 36-3208, your service can be characterized as honorable, general or under other than honorable conditions. I am recommending your service be characterized as general.
2. My reason for this action: Between on or about 1 January 2001 and on or about 28 February 2001, you wrongfully used marijuana on diverse occasions, for which you received a Letter of Reprimand. These actions are documented by a Letter of Reprimand, dated 18 December 2001, with attachments (Tab 1a).
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 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 counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Captain [REDACTED] Area Defense Counsel, at 1185 Cannon Street, Suite 308, Seymour Johnson AFB NC. The Area Defense Counsel can be reached at ext. 2-5345 or DSN 722-5345. Your appointment has been scheduled on 10 Jan 02 (date) at 1500 hrs (time). 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 15 Jan 02/1430 (now three duty days) 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 mandatory medical examination at the Physical Examination Section, 4th Medical Group, Seymour Johnson AFB, at 0730 hours on 11 January 2002. You are scheduled for a mandatory follow-up examination at Family Practice (Gold Team) at 0745 hours on 11 January 2002 with PA [REDACTED]. You must report 15 minutes prior to each appointment time.

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8. You have been scheduled for mandatory Transition Assistance Program (TAPs) counseling on 25 January 2002 @ 0800 hours. You must report to MSgt [REDACTED] at building 3602 for your TAPs counseling.

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 the unit orderly room or the Area Defense Counsel office.

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

[REDACTED]

Major, USAF
Commander, 4 CRS

Attachments:

Supporting Documentation:

- a. 4 CRS/CC Letter of Reprimand, dated 18 December 2001