

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
[REDACTED]		AB	[REDACTED]			
TYPE		<b>RECORD REVIEW</b>				
X PERSONAL APPEARANCE						
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
NAME OF COUNSEL AND OR ORGANIZATION						
YES	NO					
	X					
<b>MEMBERS SITTING</b>		<b>VOTE OF THE BOARD</b>				
		NON	GEN	UOTHC	OTHER	DENY
[REDACTED]		X*+				
[REDACTED]		X*+				
[REDACTED]		X*+				
[REDACTED]		X*+				
[REDACTED]		X*+				
ISSUES		EXHIBITS SUBMITTED TO THE BOARD				
A94 86, A94 56, A92 36						
INDEX NUMBER						
A66.00						
HEARING DATE		1 ORDER APPOINTING THE BOARD				
NOV 02		2 APPLICATION FOR REVIEW OF DISCHARGE				
CASE NUMBER		3 LETTER OF NOTIFICATION				
FD2002-0113		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						

\*Change Reason and Authority to Secretarial Authority.

+ Change Reenlistment Code.

Case heard at Dobbins ARB, Georgia.

Advise applicant of the decision of the Board.

SIGNATURE OF RECORDING OFFICER		SIGNATURE OF BOARD PRESIDENT	
[REDACTED]		[REDACTED]	
INDORSEMENT		DATE: 21 NOV 02	
TO:	FROM:		
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 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002		

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD2002-0113

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable, and during the hearing also requested his reenlistment code be changed.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel at Dobbins ARB, GA on November 21, 2002. The following witnesses also testified on the applicant's behalf: [REDACTED] applicant's parents.

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

**FINDINGS:** The Board grants the relief requested.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an impropriety that would justify a change of discharge. However, based upon applicant's testimony and the record, the Board finds the applicant's character of service and reason for discharge are inequitable.

The applicant's issues are listed in the attached brief.

Issues. Applicant contends discharge was inequitable because it was too harsh based on a one-time isolated incident. The records indicated the applicant received an Article 15 for drug abuse. Specifically he admitted in a signed sworn statement to the Air Force Office of Special Investigations (AFOSI) that he had used it once. At the time of his discharge, member requested to be retained. During the Discharge Review Board interview, applicant attributed his misconduct to immaturity and a lapse in judgment, admitting he had made a mistake. He further denied any other drug use before, during, or after his period of military service. The Board concluded the misconduct was a significant departure from conduct expected of all military members, and did not condone the seriousness of member's drug abuse, particularly since he knew illegal drug use was incompatible with Air Force standards, but chose to ignore those standards. However, the Board found the characterization of the discharge received by the applicant was too harsh in the absence of other documented disciplinary infractions. While the legal reviews noted that the unit commander did not feel member met the stringent retention criteria, and cited "countless questions regarding his judgment and suitability for a military career" based on consistently missed appointments, questionable financial decisions, and a one-time weight and body fat measurement failure, the discharge record contained no documentary evidence of these alleged other infractions. In the absence of such information, the Board found the discharge too harsh.

**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 discharge is more accurately described as Secretarial Authority. The applicant's characterization of service 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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/12/13 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 82/02/27. Enlmt Age: 18 2/12. Disch Age: 19 9/12. Educ:HS DIPL. AFQT: N/A. A-48, E-23, G-32, M-28. PAFSC: 3A011 - Personnel Apprentice. DAS: 01/03/18.

b. Prior Sv: (1) AFRes 00/04/28 - 00/07/11 (2 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/07/12 for 4 yrs. Svd: 01 Yrs 05 Mo 02 Das, all AMS.

b. Grade Status: AB - 01/07/25 (Article 15, 01/07/25)  
AMN - 01/01/12

c. Time Lost: none.

d. Art 15's: (1) 01/07/25, Lackland AFB, TX - Article 112a. You, did, between on or about 28 Feb 01 and on or about 1 April 2001, wrongfully use marijuana. Reduction to AB, 5 days extra duty (suspended until 24 Jan 02). (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: none.

(Discharged from Lackland AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (07) Mos (16) Das  
TAMS: (01) Yrs (05) Mos (02) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/03.  
(Change Discharge to Honorable)

Issue 1: On or about the beginning of February or the end of March an Airman by the name of ----- came by my dorm room and asked if I wanted to get

something to eat. I told him that I would. On the way to get the food the airman pulled out a joint and asked if I wanted to smoke. I told him that I didn't want to. He then said that he didn't want to smoke alone. I still told him I didn't want to smoke. But he still proceeded to ask, so I told him that I would. He lit the "Joint" and began smoking it and then handed it to me and I smoked a little of it and gave it back to him. As I looked out the window I caught a look at my reflection. I told myself that I would never do it again. About 2 or 3 months later I was called to the Office of Special Investigations. I was questioned by two investigators. The agents asked me to tell them everything. So I told the officers everything, then I was allowed to read the other airman's statement which contained lies and I informed the agents that some of the information in the statement were lies. After that I was given a drug urinalysis test which came back negative. They also completed a background check that contained nothing negative. That was the one and only time I have ever smoked marijuana and I will never experiment with it again. An attorney was appointed to represent me but he failed poorly in my defense. He did not argue my case or represent me at all. My attorney told me that in cases like mine a discharge will happen. He stated that he would fight for me to be retained in the Air Force but did not represent me at all. On the date that I was to meet with my commander and turn in my retention packet my attorney had been put on another case, therefore, I had no legal representation.

**ATCH**  
none.

02/06/26/ia

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**DEPARTMENT OF THE AIR FORCE**  
67<sup>TH</sup> INFORMATION OPERATIONS WING (ACC)

29 NOV 2001

MEMORANDUM FOR 67 IOW/CC

FROM: 67 IOW/JA

SUBJECT: Legal Review- Administrative Discharge Action - [REDACTED]  
[REDACTED] (ACC)

1. **EXECUTIVE SUMMARY:** The proposed discharge of [REDACTED] has been reviewed and found legally sufficient to support administrative separation under AFI 36-3208, paragraph 5.54, Drug Abuse, with a general service characterization without an offer of probation and rehabilitation (P&R).
2. **BACKGROUND:** On 9 November 2001, the Squadron Section Commander of the 67<sup>th</sup> Information Operations Wing (67 IOW), Lackland AFB, Kelly Annex, TX, initiated this separation action pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.54, for Drug Abuse. [REDACTED] recommended a general discharge without probation and rehabilitation (P&R). On 19 November 2001, after consulting counsel, [REDACTED] submitted a statement requesting retention (Atch 3). This discharge action is legally sufficient subject to inclusion of the medical examination report indicating [REDACTED] is qualified for worldwide duty.
3. **SUMMARY OF THE EVIDENCE:** Between on or about 28 February 2001 and on or about 1 April 2001, [REDACTED] wrongfully used marijuana. For this misconduct, he received an Article 15, dated 25 July 2001, consisting of a reduction to the rank of Airman Basic with a new date of rank of 25 July 2001, and 5 days extra duty, suspended until 24 January 2002. This action was placed in an Unfavorable Information File (UIF).
4. **DISCUSSION:**
  - a. **Appropriateness of Discharge:** Considering the wrongful use of marijuana, [REDACTED] is unfit to continue serving in the military. Accordingly, the 67 IOW/CCQ recommends that he be discharged. 67 IOW/CCQ does not believe that [REDACTED] meets the stringent retention criteria set forth in AFI 36-3208, para 5.55.2. [REDACTED] is 19 years old and has 1 year and 4 months of military service. He is entitled to wear the Air Force Training Ribbon. His record contains no EPRs. In his statement, [REDACTED] asks that he be given consideration for retention. He states he entered the Air Force for a better start at life, learn about computers, and to fight for a good cause. He further goes on to say that he enjoyed his Air Force career very much. Unfortunately, his misconduct involving marijuana use and other disciplinary infractions lead me to believe that his continued presence in the Air Force would be inconsistent with the interests of the Air Force in maintaining good order and discipline. Immediate discharge is the most appropriate action at this time.

**Attorney Work Product**

This is a privileged document. It will not be released in whole or in part  
without the approval of the Staff Judge Advocate.

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b. Characterization of Service: Paragraphs 1.18 and 5.48 of AFI 36-3208 provide that when a member is discharged for misconduct, service may be characterized as honorable only when the member's service has been so meritorious that any other characterization would be inappropriate. A general discharge is warranted when the member's service has been honest and faithful, but significant aspects of the member's conduct or performance outweigh positive aspects of the member's military record. Although [REDACTED] performed well while on duty, his off-duty misconduct outweighs his otherwise honest and faithful service. Because of the significant negative aspects of [REDACTED] drug abuse, a general discharge is the most appropriate characterization.

c. Probation and Rehabilitation: LAW AFI 36-3208, Chapter 7, para 7.2.6, [REDACTED] is ineligible for P&R due to the fact that the basis for his discharge is drug abuse.

5. OPTIONS: As the Special Court-Martial Convening Authority, you may:

- a. Direct that [REDACTED] be retained; or
- b. Discharge [REDACTED] with a general discharge; or
- c. Forward the package to 8 AF/CC with a recommendation that [REDACTED] receive an honorable discharge.

6. RECOMMENDATION: That you sign the letter at Tab 1, discharging [REDACTED] in accordance with AFPD 36-32 and AFI 36-3208, paragraph 5.54, with a general discharge without P&R.

[REDACTED]  
[REDACTED] Lt Col, USAF  
Staff Judge Advocate

Attachments:

1. Ltr to 37 MSS/DPMAR
2. CC's Ltr of Recommendation
3. Permission to Proceed, dtd 2 Nov 01

**Attorney Work Product**

This is a privileged document. It will not be released in whole or in part without the approval of the Staff Judge Advocate.



DEPARTMENT OF THE AIR FORCE  
67<sup>th</sup> INFORMATION OPERATIONS WING (ACC)

FD 2002-0113

09 NOV 2001

MEMORANDUM FOR [REDACTED] 67 IOW

FROM: 67 IOW/CCQ

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

1. I am recommending your involuntary 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 or general (under honorable conditions). I am recommending that your service be characterized as general.
2. My reason for this action is: Between on or about 28 February 2001 and on or about 1 April 2001, you wrongfully used marijuana. For this offense, you received an Article 15 dated, 25 July 2001, consisting of a reduction to the rank of Airman Basic with a new date of rank of 25 July 2001, and 5 days extra duty, suspended until 24 January 2002. This action was placed in an Unfavorable Information File (UIF).
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. 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 counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] on 09 Nov 01 at 1400 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 15 Nov 01/1300 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. You must report to Reid Clinic Bldg 6612 at 1500 hours on 09 Nov 01 for the examination.  
(Physical Exams)

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 at the squadron's orderly room.



, 1Lt, USAF

Section Commander

Attachment:

1. Article 15, dtd 25 Jul 01
2. AF Form 1137 (UIF Summary)