

COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO						
	X						
MEMBERS SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A92.01, A92.11, A92.21, A92.37, A93.17		INDEX NUMBER A66.00	EXHIBITS SUBMITTED TO THE BOARD				
HEARING DATE 02-08-14		CASE NUMBER FD2002-0119	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 RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONAL							
REMARKS Case heard at Washington, D.C. Advise applicant of the decision of the Board and the right to a personal appearance with/without counsel, The right to submit an application to the AFBCMR.							
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT				
INDORSEMENT			DATE: 02-08-14				
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

FD2002-0119

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 or that provided by applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant was discharged for misconduct, namely drug abuse, Ecstasy and psilocyn mushrooms. Pursuant to her guilty pleas, member was convicted at Special Court Martial and sentenced to reduction from Senior Airman to Airman Basic and 2 months confinement. In her signed sworn statement to the Air Force Office of Special Investigations (AFOSI) she admitted using the illegal mushrooms twice and Ecstasy once. At the time of the administrative discharge processing, member submitted a statement in her own behalf expressing her regret that her lapse in judgment had tarnished her otherwise stellar career, and requesting an honorable discharge in view of her otherwise exceptional duty performance. Because it was noted member had used illegal drugs on multiple occasions over a 7-month period, this rendered member ineligible for retention because her use could no longer be viewed as "experimental" as required by the retention criteria. Furthermore, member did not request she be considered for retention at the time of the discharge, and had she, the burden would have been his to show she met the seven retention criteria. Applicant again notes she completed 4 years of successful service, cooperated with investigative authorities, and is now trying to finisher college degree. The Board noted that member had two Enlisted Performance Reports rated overall "5", was promoted below the zone to Senior Airman during her enlistment, and had many character references recommending clemency at the time of her court martial. However, 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. Ecstasy and illegal mushroom use are viewed as a very serious failure to meet Air Force standards, and negates member's otherwise exemplary performance. The Board noted that because drug abuse is not compatible with Air Force standards, the characterization of service member received is warranted.

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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/12/19 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 77/12/17. Enlmt Age: 18 1/12. Disch Age: 23 0/12. Educ:HS DIPL. AFQT: N/A. A-82, E-72, G-68, M-37. PAFSC: 3C051 - Communications-Computer Systems Operations Journeyman. DAS: 98/03/26.

b. Prior Sv: (1) AFRes 96/02/15 - 96/07/09 (4 months 25 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as 96/07/10 for 4 yrs. Extended 00/07/20 for 1 month. Svd: 04 Yrs 05 Mo 10 Das, all AMS.

b. Grade Status: AB - 00/10/26 (SPCMO No.2, 00/11/16)
 SRA - 99/01/10
 A1C - 97/11/10
 AMN - 97/01/10

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: Special Court Martial Order No. - 00 Nov 16

CHARGE: Article 112□.

Specification 1: Did, on divers occasions, between 1 Nov 99 and 31 May 00, wrongfully use psilo□yn, a Schedule I controlled substance. Plea: Guilty. Finding: Guilty.

Specification 2: Did, on or about 13 Nov 99, wrongfull use 3.4 Methylenedioxymethamphetamine (MDMA) (Ecstasy), a Schedule I controlled substance. Plea: Guilty. Finding: Guilty. Sentence: adjudged by military judge alone on 26 Oct 00: Confinement for two months and reduction to AB.

g. Record of SV: 96/07/10 - 98/07/23 Yokota AB 5 (Intial)
 98/07/24 - 99/07/23 Yokota AB 5 (Annual)

(Discharged from Luke AFB)

h. Awards & Decs: AFAM W/1 DEV, AFLSAR, AFTR, AFOSSTR, AFOSLTR, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (10) Mos (15) Das
TAMS: (04) Yrs (05) Mos (10) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/03/05.
(Change Discharge to Honorable)

Issue 1: Please consider an upgrade to honorable in the charactersic (sic) of my discharge for the following reasons: Prior to my court martial I completed four years of honorable service with the highest of E.P.R. ratings and all obligations to my enlistment term; required to received the G.I. Bill. I gave full and honest assistance to the authorities involved in the investigations and prosecutions surrounding my court martial. Since my discharge, I have lived as an honest citizen, attempting to complete a degree in Computer Sciences.

ATCH
none.

02/06/27/ia

FD2002-0119



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES



DEC 04 2000

MEMORANDUM FOR 374 AW/CC

FROM: 374 AW/JA

SUBJECT: Legal Review of AFI 36-3208 Discharge – [REDACTED]
374 CS, [REDACTED]

1. I reviewed the subject package and find a preponderance of the evidence supports the commander's recommendation to discharge [REDACTED] with a general discharge.

2. SUMMARY OF EVIDENCE:

a. **For the Commander:** Airman Basic [REDACTED] has been in the Air Force for four years. AB [REDACTED] was tried by a Special Court-Martial on 26 Oct 00 for wrongfully using two schedule I controlled substances, psilocyn and 3,4 methylenedioxymethamphetamine (MDMD) (Ecstasy). AB [REDACTED] pled guilty and was found guilty and sentenced to reduction to the grade of Airman Basic and two months confinement. In her response to this discharge action, AB [REDACTED] regrets that her actions tarnished an otherwise four years of outstanding military service. Nevertheless it was four years of service that involved illegal drug abuse in a military, which has established a "Zero Tolerance Policy" against drug abuse.

b. **For the Respondent:** AB [REDACTED] submitted a response to this discharge action dated 29 Nov 00 requesting that she receive an honorable discharge in order to receive her GI Bill educational benefits. She believes she is entitled to such benefits since her work performance had always been described as exceptional as denoted by her enlisted performance reports and chain of command. If AB [REDACTED] receives a General discharge she will lose her GI Bill educational benefits. She states this would make it extremely difficult for her to pursue a goal of completing her college education. AB [REDACTED] states she is disappointed in herself and her lapse of judgment. She believes she has learned from her mistake and hopes she will not continue to suffer from them.

3. **DISCUSSION:** According to AFI 36-3208, Section H, para 5.54, drug abuse is incompatible with military service and airmen who abuse drugs one or more times are subject to discharge for misconduct. Furthermore, the presence in the military environment of persons who engage in drug abuse seriously impairs accomplishing the military mission. Members who abuse drugs adversely affect the ability of the Air Force to maintain discipline, good order, and morale.

4. When considering characterization of service, we look at the member's service during the current enlistment or period of service to which the separation pertains. In this case, the drug abuse occurred in AB [redacted] current enlistment. AB [redacted] not regretting a one-time use of drugs, which one may view as a momentary lapse of judgment. AB [redacted] was abusing drugs over a seven-month period, seven months in which she could have been pursuing her college education. AB [redacted] does not deserve the same consideration or benefits as airman who chose not to abuse drugs while in the military. As a result, we believe the only service characterization appropriate in this case is general, as recommended by AB [redacted] unit commander.

5. AB [redacted] is not entitled to Probation and Rehabilitation (P&R) because she is being separated for drug abuse.

6. OPTIONS OF THE SPECIAL COURT-MARTIAL CONVENING AUTHORITY (SPCMCA):

- a. Retain AB [redacted]
- b. Order AB [redacted] discharged with a General discharge; or
- c. Direct re-initiation of the discharge action if you believe an Under Other Than Honorable Conditions discharge is warranted by the facts of this case; or
- d. Forward the package to the General Court-Martial Convening Authority with a recommendation that AB [redacted] be discharged with an Honorable discharge.

7. RECOMMENDATION: Discharge AB [redacted] with a general discharge, without probation and rehabilitation.

[Redacted signature]

Staff Judge Advocate
1st Col, USAF



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD 2002-0111



U.S. AIR FORCE

28 Nov 00

MEMORANDUM FOR AB [REDACTED] 374 CS

FROM: 374 CS/CCQ

SUBJECT: Notification Memorandum

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, section H, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable or general (under honorable conditions). I am recommending your service be characterized as general.
2. My reason for this action is:
 - a. On divers occasions between 1 November 1999 and 31 May 2000, you wrongfully used a schedule I controlled substance, to wit: psilocyn, in violation of Article 112a of the UCMJ as evidenced by your court-martial conviction on 26 October 2000.
 - b. On or about 13 November 1999, you wrongfully used a schedule I controlled substance, to wit: 3,4 methylenedioxymethamphetamine (MDMD) (Ecstasy), in violation of Article 112a of the UCMJ as evidenced by your court-martial conviction on 26 October 2000.
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 made an appointment for you to consult Captain [REDACTED] at the Area Defense Counsel's office, on 29 November 2000 at 1300 hours. The Osan Area Defense Counsel can be reached at 784-4351. 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 1 Dec 2000 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 are scheduled for a medical examination. You must report to the Yokota Medical Facility, Physical Exams Section by 0830 hours on 29 November 2000 for the examination. If you wear eyeglasses or contact lenses, bring them to the exam with you. If you wear contact lenses, bring a container to place them in during the exam.

8. A copy of AFI 36-3208 is available for your use at the 374th Communications Squadron's Master Reference Library. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974.

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

[REDACTED]
[REDACTED] USAF
Section Commander
374th Communications Squadron

2 Attachments

1. AF Form 1359, Result of Trial, dated 26 Oct 00
2. DD Form 490, Record of Trial, dated 26 Oct 00