

PERSONAL APPEARANCE		X RECORD REVIEW						
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO							
	X							
MEMBERS SITTING				VOTE OF THE BOARD				
				HON	GEN	UOHC	OTHER	DENY
[REDACTED]								X
								X
								X
								X
								X
ISSUES A94.05		INDEX NUMBER A67.70		EXHIBITS SUBMITTED TO THE BOARD				
HEARING DATE 22 AUG 02		CASE NUMBER FD2002-0127		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, and the right to submit an application to the AFBCMR.								
SIGNATURE OF RECORDER				SIGNATURE OF BOARD PRESIDENT				
[REDACTED]				[REDACTED]				
INDORSEMENT				DATE: 22 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002				

AFHQ FORM 0-2077, JAN 00

(EF-V2)

Previous edition will be used.

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0127

GENERAL: The applicant appeals for upgrade of discharge to Honorable and to change the Reason and Authority for discharge.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

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

FINDINGS: Upgrade of discharge is denied.

The board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

ISSUE: The applicant felt his discharge was inequitable because it was based on an isolated incident and that his conduct and efficiency ratings were good. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received an Article 15 for wrongfully possessing hashish and marijuana. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the drug abuse was a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.

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]
(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/05/31 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge and to Change the Reason and Authority for Disch.

2. **BACKGROUND:**

a. DOB: 77/03/31. Enlmt Age: 18 3/12. Disch Age: 23 2/12. Educ: HS DIPL. AFQT: N/A. A-59, E-51, G-76, M-79. PAFSC: X1A251 - Aircrew Aircraft Loadmaster. DAS: 96/04/23.

b. Prior Sv: (1) AFRes 95/07/21 - 96/01/17 (5 months 27 days) (Inactive).

(2) Enlisted as AB 96/01/18 for 4 yrs. Svd: 3 yrs 1 month 26 days, all AMS. AMN - 96/07/18. A1C - 97/05/18. SRA - 99/01/18. EPRs: 5, 5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SRA 99/03/15 for 6 yrs. Svd: 01 Yrs 02 Mo 16 Das, all AMS.

b. Grade Status: AB - 00/04/17 (Article 15, 00/04/17)

c. Time Lost: none.

d. Art 15's: (1) 00/04/17, Little Rock AFB, AR - Article 112a. You did, on or about 3 Mar 00, wrongfully possess 2.4 grams of hashish, a derivative of marijuana, a controlled substance. you did, on or about 3 Mar 00, wrongfully possess 3.5 grams of marijuana, a controlled substance. Reduction to AB, forfeiture \$250.00 pay per month for 2 months, 14 days extra duty, 30 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 98/09/18 - 99/09/17 Little Rock AFB 5 (Annual)

(Discharged from Little Rock AFb)

h. Awards & Decs: AAM W/2 OLCS, AM W/1 OLC, AFLSAR, AFTR, AFSM, HSM, CRM, AFGCM, AFOUA, AFEM.

i. Stmt of Sv: TMS: (04) Yrs (10) Mos (11) Das

TAMS: (04) Yrs (04) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/03/13.

(Change Discharge to Honorable and Change Reason and Authority for Discharge)

Issue 1: Dear Discharge Review Board. This is a statement that I believe that my service discharge should be upgraded to Honorable and that my discharge was inequitable. I believe that in my case the service acted unfairly and that you review the attached documents to show that clemency is warranted because it would be an injustice for me to continue to suffer the adverse consequences of a bad or general discharge. I feel this way for the following reasons and bases:

1. My average conduct and efficiency ratings/behavior and proficiency marks were good. Reference Document #1,2,3, and 4.
2. Received awards and decorations. Reference DD 214.
3. Received letters of recommendations. Reference #1,2,3,4.
4. Had combat service in the Gulf. Reference DD 214.
5. Record of promotions showed I was a good service member.
6. I am now married with one child and I have been a good citizen since discharge. Reference Documents #5,6,7, and 8.

Moreover, my record of NJPs/ Article 15s indicates only isolated or minor offenses.

To make a point on this request for upgrade is that the punishment I got at discharge was too harsh and worse than most people got for the same offense.

I wish to thank you for your time and consideration on this matter please review and keep me advised. Thank you.

ATCH

1. Letter of Appreciation.
2. Letter of Outstanding Performance.
3. Aircraft Commander's Report on Crew Member.
4. Letter of Support.
5. Letter of Reference.
6. Certificate of Birth.
7. Marriage License.
8. DD Form 214.

02/07/03/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 314TH AIRLIFT WING (AETC)
LITTLE ROCK AIR FORCE BASE, ARKANSAS

FD 2002-0127

23 May 2000

MEMORANDUM FOR 314 AW/CC

FROM: 314 AW/JA

SUBJECT: Legal Review of Administrative Discharge - [REDACTED]
[REDACTED] 61st Airlift Squadron

1. LEGAL SUFFICIENCY: I have reviewed the attached case file of [REDACTED] and I find it legally sufficient to support his commander's recommendation to separate him for Drug Abuse with an Under Honorable Conditions (General) discharge without probation and rehabilitation (P&R).
2. PROCEDURAL REQUIREMENTS: On 23 May 2000, [REDACTED] 61 AS/CC, initiated action under AFPD 36-32 and AFI 36-3208 to involuntarily separate [REDACTED] for Drug Abuse. AB [REDACTED] was properly notified of his rights associated with a notification discharge IAW AFPD 36-32 and AFI 36-3208. (Tabs 1 and 2.) [REDACTED] waived both consulting with counsel or to submit matters on his behalf. (Tab 3.) [REDACTED] recommends that [REDACTED] receive an Under Honorable Conditions (General) service characterization. As the Special Court-Martial Convening Authority for the installation, you are the discharge authority for the case. AFI 36-3208, para 5.56.1.1; Special Order G-012, dated 23 September 1998, HQ USAF.
3. PERSONAL DATA: [REDACTED] is 22 years old. He re-enlisted on 15 March 1999 for a term of 6 years and has been assigned to 61 AS since 23 April 1996. He is entitled to wear the Air Medal, Aerial Achievement Medal (1 OLC), Outstanding Unit Award, Combat Readiness Medal, Air Force Good Conduct Medal, Armed Forces Service Medal, Humanitarian Service Medal, Air Force Longevity Service Award, and Air Force Training Ribbon. Member received two Enlisted Performance Reports with the following close-out dates and ratings: 17 September 1999 - 5; 17 September 1998 - 5. (Tab 5)
4. BASIS FOR ACTION: The basis for action in this case is AFPD 36-32 and AFI 36-3208, para 5.54, Drug Abuse, and involves the following facts: On 3 March 2000, you wrongfully possessed, and transported over an international border, marijuana and hashish, controlled substances. (Atch 1-1)
5. SUMMARY OF MATTERS SUBMITTED BY [REDACTED] None.

6. IS DISCHARGE APPROPRIATE? Yes.

Drug abuse is wholly incompatible with military service. Members who use drugs adversely affect the Air Force's ability to accomplish the mission, to maintain good order and discipline, to foster mutual trust and confidence, and to maintain public acceptance. AFI 36-3208, para 5.54.2. AFI 36-3208, para 5.55.2.1, states that "[a] member found to have abused drugs will be discharged unless the member meets all seven" of the specified retention criteria. The member bears the burden of raising and proving that retention is warranted under these criteria. AFI 36-3208, para 5.55.2.2. [REDACTED] did not attempt to prove that he meets all or any of the seven retention criteria in response to the discharge notification (Tab 3). Therefore, discharge is appropriate.

7. CHARACTERIZATION:

a. Usually a discharge for drug abuse is characterized as Under Other Than Honorable Conditions (UOTHC). AFI 36-3208, para 5.48.1. A UOTHC service characterization is appropriate when the reason for discharge is a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. AFI 36-3208, para 1.18.3. Examples of behavior warranting an UOTHC service characterization are listed in AFI 36-3208, para 1.18.3; however, [REDACTED] misconduct, unacceptable as it was, does not clearly fit any of the listed examples, i.e. [REDACTED] marijuana possession never seriously endangered the health and safety of others. Therefore, UOTHC is not the most appropriate characterization in this case.

b. In this case [REDACTED] recommends that [REDACTED] receive an Under Honorable Conditions (General) discharge. A General discharge is warranted when a member's service has been honest and faithful but significant negative aspects of the member's conduct or duty performance outweigh positive aspects of the member's military record. AFI 36-3208, para 1.18.2. Considering [REDACTED] drug possession and transportation in light of his entire military record, an Under Honorable Conditions (General) discharge is appropriate in this case. This service characterization is consistent with the service characterization of other airmen with similar misconduct.

8. PROBATION AND REHABILITATION (P&R): AB [REDACTED] is not eligible for P&R because he is being discharged for drug abuse. AFI 36-3208, para 7.2.6.

9. OPTIONS: As the Separation Authority you must determine whether the allegations are supported in fact. If you find that the allegations are not supported in fact, then you must retain [REDACTED]. If you find that the allegations are supported in fact, you may:

- a. Direct that the respondent be retained;
- b. Direct that he be separated with an Under Honorable Conditions (General) discharge without P&R;

c. Recommend to 21 AF/CC that he be separated with an Honorable discharge without P&R;
or,

d. Direct that this case be reinitiated and processed according to AFI 36-3208, Chapter 6, Section C, if you believe that an Under Other Than Honorable Conditions (UOTHC) discharge is appropriate.

10. RECOMMENDATION: Approve [REDACTED] recommendation to separate AB [REDACTED] with an Under Honorable Conditions (General) discharge without P&R.

[REDACTED]
[REDACTED], Capt, USAF
Chief, Adverse Actions

I concur.

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

Attachment
314 AW/CC Ltr



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR MOBILITY COMMAND (AMC)

23 MAY 2000

MEMORANDUM FOR AB [REDACTED]
61ST AIRLIFT SQUADRON

FROM: 61 AS/CC

SUBJECT: Notification Memorandum

1. I am recommending your separation from the United States Air Force for Drug Abuse. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.54, Drug Abuse. If my recommendation is approved, your service will be characterized as Under Honorable Conditions (General).
2. My reason for this action is that on or about 3 March 2000, you wrongfully possessed, and transported over an international border, hashish and marijuana, controlled substances.
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 higher authority will decide whether you will be discharged or retained in the Air Force and, if 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, Bldg 1255, Rm 201, Telephone 7-3260 at 1330 hours on 23 May 2000. You may consult civilian counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the Separation Authority to consider must reach me by three (3) workdays 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 on 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 Little Rock AFB Hospital at 0745 hours on 24 May 2000 for the examination.

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 the Orderly Room.

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

A large, dark, irregular redacted area covering the signature of the sender.

1st Col, USAF

Commander

Attachments:

1-1 Art. 15, 20 Apr 2000

Member's Response, 17 Apr 2000

Character Statement, 14 Apr 2000

Report of Investigation (00515D17-S916753), 15 Mar 00

AF Form 2030, 7 July 95, 18 Jan 96