

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">COUNSEL</th> <th style="width: 90%;">NAME OF COUNSEL AND OR ORGANIZATION</th> </tr> <tr> <td style="width: 10%; padding: 5px;">YES</td> <td style="width: 90%; padding: 5px;">NO</td> </tr> <tr> <td style="width: 10%; padding: 5px;"></td> <td style="width: 90%; padding: 5px;">X</td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	YES	NO		X	ADDRESS AND OR ORGANIZATION OF COUNSEL
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION							
YES	NO							
	X							

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.37, A94.39	INDEX NUMBER A66.00	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	

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 and the right to a personal appearance with/without counsel, The right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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DATE: 02-08-27

TO: SAF/MJBR 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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0128

GENERAL: The applicant appeals for upgrade of discharge 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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant received an Under Other Than Honorable Conditions (UOTHC) discharge for drug abuse. Member had two Articles 15; his misconduct included driving a government vehicle into an aircraft causing significant damage in excess of \$18,800.00, wrongfully using marijuana, and making two false statements. Member also had a referral Airman Performance Report rated an overall "6." At the time of the discharge proceeding, applicant invoked his right to an administrative discharge board. The Board found applicant did commit the marijuana offense and also damaged a military aircraft and a military vehicle. They recommended he receive the UOTHC discharge without offer of probation and rehabilitation. The chain of command concurred with the board. In view of the seriousness of the offenses for which applicant was discharged, and the fact that he requested and received all of his full due process rights, the Board could find no inequity or impropriety that warrants an upgrade or change 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

(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 88/04/19 UP AFR 39-10, para 5-49c (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 63/12/31. Enlmt Age: 19 6/12. Disch Age: 24-3/12. Educ:HS DIPL. AFQT: N/A. A-61, E-43, G-34, M-61. PAFSC: 43131C - Apprentice Tactical Aircraft Maintenance Specialist. DAS: 87/01/16.

b. Prior Sv: (1) USAR 83/07/01 - 85/01/03. SVD: 1 yr 6 months 2 days, of which AMS is 5 months 20 days. PVT(E-2) - 84/04/29. PFC(E-3) - 84/06/30.

3. **SERVICE UNDER REVIEW:**

- a. Enlisted USAF as Amn 85/01/04 for 4 yrs. Svd: 03 Yrs 03 Mo 16 Das, all AMS.
- b. Grade Status: AB - 87/09/16 (Article 15, 87/09/16)
 SRA - 87/07/15
 A1C - 85/09/04
- c. Time Lost: none.
- d. Art 15's: (1) 87/09/16, Reese AFB, TX - Article 112a. In that you, did, on or about 31 Jul 87, wrongfully use marijuana, a controlled substance. Article 107. In that you, did, on or about 3 Aug 87, with intent to deceive, make to MSgt -----, First Sergeant, 64th Organizational Maintenance Squadron, an official statement, to wit: that you had been with A1C ----- and A1C ----- at their home in Lubbock, Texas, talking about stereos, from about 1200 to 1500 hours on 31 Jul 87, which statement was totally false, and was then known by you to be so false. In that you, did, on or about 3 Aug 87, with intent to deceive, make to SSgt -----, a Security Police Investigator, an official statement, to wit: that you had left Reese AFB, Texas, on 31 Jul 87, only to visit ----- Auto Shop and then the South Plains Mall, both of Lubbock, Texas, which statement was totally false and was then known by you to be so false. Reduction to AB, forfeiture of \$329.00 pay per month for 2 months. (No appeal) (No mitigation)
- (2) 87/08/25, Reese AFB, TX - Article 108. In that you, did, on or about 1 Aug 87, without authority, through

neglect, damage by driving government vehicle #82B660 into a T-38 aircraft #64332, both government vehicle #82B660 and aircraft #64332 being military property of the United States, the total amount of damage to both the said vehicle and said aircraft being in the sum of \$18,863.85. Reduction to AB (suspended until 24 jan 88), forfeiture of \$150.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 85/01/04 - 86/01/03 Clark AB 8 (Annual)
86/01/04 - 87/01/03 Clark AB 9 (Annual)

(Discharged from Reese AFB)

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

i. Stmt of Sv: TMS: (04) Yrs (09) Mos (19) Das
TAMS: (03) Yrs (09) Mos (06) Das

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

NO ISSUES SUBMITTED.

ATCH

1. Nine Letters of Support.

02/07/03/ia



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS SHEPPARD TECHNICAL TRAINING CENTER (ATC)
 SHEPPARD AIR FORCE BASE TX 76311-5000

8 APR 1989

REPLY TO
 ATTN OF:

JA [REDACTED]

SUBJECT:

GCM Legal Review: AFR 39-10 Board Proceeding (AB [REDACTED],
 FR [REDACTED], 64 OMS, Reese AFB TX)

TO:

CC

1. Pursuant to paragraph 6-19(a), AFR 39-10, I have reviewed the record and determined that the administrative discharge board proceeding in the case of AB [REDACTED] is legally sufficient.
2. For the purposes of this legal review, I adopt the legal review performed by 64 ABG/JA for 64 ABG/CC as my own. Respondent's counsel accused 64 ABG Staff Judge Advocate and 64 ABG/CC of losing, misplacing, or concealing two attachments to a conditional waiver request by the Respondent. Upon review of the record, I find that the Legal Advisor correctly ruled that the issue of lost attachments to a conditional waiver was not an item properly before the administrative discharge board. In fact, AFR 39-10 expressly states, "the fact that a conditional waiver was offered and rejected must not be made a part of the record shown to the administrative discharge board," paragraph 6-28(b), AFR 39-10.
3. The administrative discharge board found that [REDACTED] committed drug abuse--wrongfully used marijuana (paragraph 5-49(c)); and that he committed a serious offense--damaged a military aircraft and a military vehicle (paragraph 5-49(d)). Since the discharge board found a basis to support discharge of [REDACTED] under both paragraph 5-49(c), drug abuse, and paragraph 5-49(d), [REDACTED] commission of a serious offense, should you determine to discharge [REDACTED], discharge is available under one or both areas of misconduct. Since the case was initiated under the provisions for drug abuse and the record reflects that the proceedings were predominantly accentuated toward the issue of misconduct by virtue of drug abuse, I recommend drug abuse as the sole basis for discharge of [REDACTED].
4. As the separation authority, you have these options:
 - a. You may direct discharge of [REDACTED] Under Other Than Honorable Conditions, with or without opportunity for probation and rehabilitation;
 - b. You may direct discharge of [REDACTED] with either a General or an Honorable Discharge, and in either character discharge, you may direct discharge with or without opportunity for probation and rehabilitation; or
 - c. You may direct that [REDACTED] be retained.

5. I concur in the recommendation of the discharge board and 64 ABG/CC. Thus, I recommend that you direct the discharge of [REDACTED] for misconduct--drug abuse and that [REDACTED] be discharged with an Under Other Than Honorable Conditions Discharge without opportunity for probation and rehabilitation.

[REDACTED]

6A0MS/CC

15 October 87

Letter of Notification - Board Hearing

[REDACTED]

1. I am recommending your discharge from the United States Air Force for Drug Abuse according to AFR 39-10, under the provisions of paragraph 5-49c. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

On or about 31 July 87, you wrongfully used Marijuana, a controlled substance, after which you struck an aircraft with a government vehicle. For striking the aircraft, you received an AF Form 3070, dated 6 August 87, and subsequently received a suspended reduction to the grade of Airman Basic and forfeitures of \$150.00 pay per month for two months; furthermore, it was disclosed through investigation after the accident that you had wrongfully used Marijuana prior to reporting to work on the night of the accident. You were therefore served another AF form 3070, dated 9 September 87, reduced to the grade of Airman Basic, and ordered to forfeit \$329.00 per month for two months.

3. This action could result in your separation with an Under Other Than Honorable Conditions characterization. I am recommending that you receive an Under Other Than Honorable Conditions discharge. The commander exercising SPCM jurisdiction or higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

4. I do not recommend probation and rehabilitation according to chapter 7. [REDACTED] does not maintain any regard for personal responsibility and I do not feel that he has the ability to adapt to the military way of life.

[REDACTED]

- 5 Atch
1. Cy Ltr of Notification w/atchs
 2. Airman's Receipt of Ltr of Notification
 3. Airman's Statement
 4. Medical Examination
 5. APRs