

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	UOTHC	OTHER	DENY
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD				
A93.01	A67.70	1	ORDER APPOINTING THE BOARD			
		2	APPLICATION FOR REVIEW OF DISCHARGE			
		3	LETTER OF NOTIFICATION			
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE			
21 AUG 02	FD2002-0131		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: 21 AUG 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 RD FLOOR ANDREWS AFB, MD 20762-7002			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0131

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

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 is not contending that his discharge was inequitable. He states that he was immature at the time of the discharge. 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 and using marijuana. The DRB recognized the applicant was 20 years of age when the discharge took place. However, there is no evidence of record to indicate he was immature or did not know right from wrong. The Board opined the applicant was as old as than the vast majority of first term members who properly adhere to the Air Force standards of conduct. The Board concluded this issue was without merit. 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 AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/03/04 UP AFR 39-10, para 5-51 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 71/06/15. Enlmt Age: 19 1/12. Disch Age: 20 8/12. Educ: HS DIPL. AFQT: N/A. A-74, E-36, G-53, M-27. PAFSC: 64530 - Inventory Management Specialist. DAS: 91/11/02.

b. Prior Sv: (1) AFRes 90/08/02 - 91/07/16 (11 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 91/07/17 for 4 yrs. Svd: 00 Yrs 07 Mo 18 Das, all AMS.

b. Grade Status: AB - 92/02/18 (Article 15, 92/02/18)
AMN - 92/01/17

c. Time Lost: none.

d. Art 15's: (1) 92/02/18, Griffiss AFB, NY - Article 112a. You did, on or about 22 Jan 92, wrongfully possess about 6 grams of marijuana. Article 112a. You did, on or about 22 Jan 92, wrongfully use marijuana. Reduction to AB, and forfeiture of \$200.00 pay per month for one month. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: none.

(Discharged from Griffiss AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (07) Mos (03) Das
TAMS: (00) Yrs (07) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/17.
(Change Discharge to Honorable)

Issue 1: I was immature at the time. If I had another chance I will serve

FD2002-0131

admirably.

ATCH
none.

02/07/03/ia

FD2002-0131



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 416TH WING (SAC)
GRIFFISS AIR FORCE BASE, NEW YORK 13441-5000

REPLY TO
ATTN OF: JA

28 February 1992

SUBJECT: Legal Review, Administrative Discharge, AFR 39-10, Chapter 5, Section H,
Paragraph 5-51, [REDACTED], [REDACTED] 416 SUPS

TO: CC

1. Summary: Discharge action was initiated against [REDACTED] on 25 February 1992, for misconduct - drug abuse, pursuant to AFR 39-10, paragraph 5-51. The case has been processed by notification IAW AFR 39-10, paragraph 6-8. Respondent's commander has recommended a general discharge. For reasons set forth below, I concur with the commander's recommendation.

2. Facts:

a. For the Government:

(1) On 22 January 1992, a search authority was obtained for respondent's residence, respondent's vehicle, and respondent's urine. The search disclosed approximately 2.33 grams of marijuana in the room, approximately 5.95 grams of marijuana in the vehicle, and traces of marijuana in respondent's pockets. Respondent was ordered to undergo urinalysis testing.

(2) On 5 February 1992, after consulting with legal counsel, respondent provided a sworn statement to Special Agent (SA) [REDACTED], Det 429, AFOSI, Griffiss AFB, NY, admitting he used marijuana at Griffiss AFB, NY, on the morning of 22 January 1992. (Tab 1, Atch 6 to LON)

(3) Results of respondent's urinalysis testing were received on 13 February 1992 from Brooks AFB, TX, and revealed that respondent tested positive for marijuana.

(4) Respondent received an Article 15, UCMJ, dated 18 February 1992 for drug abuse, specifically, for wrongfully possessing about 6 grams of marijuana, and wrongfully using marijuana at Griffiss AFB, New York, on or about 22 January 1992. Respondent provided a written response to the Article 15, UCMJ, on 18 February 1992, admitting to both specifications of the Article 15.

(5) Respondent has approximately 7 months of active and inactive military service. IAW AFR 39-62, no Enlisted Performance Report is due because member has less than 20 months total active military service.

b. For the Respondent: Respondent did not submit any documentation for consideration on his own behalf.

3. Discussion:

a. IAW AFR 39-10, paragraph 5-51, for this type of discharge, you are the separation authority if respondent's service is characterized as general. However, if respondent's service is characterized as honorable or under other than honorable conditions (UOTHC), then the separation authority is 8 AF/CC.

b. You may consider the above information to determine the following issues:

- (1) Is respondent subject to discharge;
- (2) Should he be discharged;
- (3) How should respondent's service be characterized.

c. Respondent is subject to discharge based on misconduct - drug abuse. AFR 39-10, paragraph 5-51.

d. Respondent should be discharged. AFR 39-10, paragraph 5-51 states that "drug abuse is incompatible with military service and airmen who abuse drugs one or more times are subject to discharge for misconduct." 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; foster mutual trust and confidence among members; facilitate assignments and worldwide deployment; recruit and retrain members; maintain public acceptability of military service; and prevent breaches of security.

e. Respondent's service should be characterized as general. AFR 39-10, paragraph 1-18b provides that a general characterization is warranted when significant negative aspects of the airman's conduct outweigh the positive aspects of his/her military record. This characterization is appropriate. The use and possession of drugs in the Air Force constitute a significant departure from the conduct expected of airmen and weigh in favor of a general characterization.

f. You should note that a prerequisite to an UOTHC discharge entitles the respondent to have his case heard by an administrative discharge board. A board hearing is not recommended due to respondent's admitted possession and use of marijuana and his short time in service (approximately 7 months TAFMS).

g. AFR 39-10, paragraph 7-2 provides that airmen are not eligible for probation and rehabilitation if the reason for discharge is drug abuse IAW AFR 39-10, paragraph 5-51. Retention of [REDACTED] is not consistent with maintenance of good order, discipline, and morale in the United States Air Force.

4. Conclusion:

a. The file is substantially in compliance with the provisions of AFR 39-10, and is legally sufficient to discharge the respondent prior to expiration of his term of enlistment.

b. You have the following options:

(1) Direct the action be discontinued and the respondent retained if you find the recommendation for discharge is not supported by a preponderance of the evidence.

(2) Direct reinitiation under a more appropriate section of AFR 39-10, if you find the action was initiated under an inappropriate section.

(3) Direct reinitiation for processing according to AFR 39-10, Chapter 6, Section C, if the issuance of an under other than honorable conditions discharge may be warranted. The respondent will be entitled to have his case heard by an administration discharge board.

(4) Forward the file to 8 AF/CC with your recommendation for an honorable discharge.

(5) Approve the recommendation and order respondent separated with a general discharge.

5. Recommendation: Approve the recommended discharge and separate the respondent with a general discharge. Should that be your decision, your signature on the attached letter will effect such action.

[Redacted signature]

[Redacted], 1Lt, USAF
Assistant Staff Judge Advocate

1 Atch
Case File - [Redacted]

I concur.
[Redacted signature]

[Redacted], Lt Col, USAF
Staff Judge Advocate

FD 2002-0131



DEPARTMENT OF THE AIR FORCE
416TH LOGISTICS GROUP (SAC)
GRIFFISS AIR FORCE BASE, NEW YORK 13441-5000

25 FEB 1992

REPLY TO
ATTN OF: CC

SUBJECT: Letter of Notification - Discharge Under the Provisions of AFR 39-10.

TO: AB [REDACTED] 416 SUPS

1. I am recommending your discharge from the United States Air Force for misconduct - drug abuse. The authority for this action is AFR 39-10, paragraph 5-51. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are your wrongful possession and use of marijuana at Griffiss AFB, New York, on or about 22 January 1992, for which you received an Article 15, UCMJ, dated 18 February 1992. 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.

3. 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], at Depot 1, 2nd floor, extension 2015, on 26 FEB 92 at 1330 hours. You may consult civilian counsel at your own expense.


4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 28 FEB 92 at 1500, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.


6. You have been scheduled for a medical examination. You must report to the Griffiss AFB Hospital, physical exams section at 0700 hours on 29 FEB 92 for the examination. Uniform of the day is required.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 2. A copy of AFR 39-10 is available for your use at the 416th SUPS Unit Orderly Room.

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


Commander Lt Col, USAF

2 Atchs

1. Supporting documents for the reason for discharge:
AF Form 3070, 18 Feb 92,
w/6 Atchs:
 - (1) AF Form 3070 Continuation Sheet
 - (2) Amn's Response to Article 15, 18 Feb 92
 - (3) Statement of Financial Status
 - (4) /AOTFR 131607Z Feb 92 Msg, Subj: Urinalysis Results
 - (5) Det 429 AFOSI/CC Ltr, 11 Feb 92
 - (6) AF Form 1168 (Amn's Statement), 5 Feb 92
2. Amn's Acknowledgment of LON