

PERSONAL APPEARANCE		X RECORD REVIEW					
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	NO						
	X						
MEMBERS SITTING			VOICE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
[REDACTED]							X
[REDACTED]							X
[REDACTED]							X
[REDACTED]							X
[REDACTED]							X
ISSUES A93.17		INDEX NUMBER A67.30		EXHIBITS SUBMITTED TO THE BOARD			
				1	ORDER APPOINTING THE BOARD		
				2	APPLICATION FOR REVIEW OF DISCHARGE		
				3	LETTER OF NOTIFICATION		
HEARING DATE 23 AUG 02		CASE NUMBER FD2002-0134		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: 23 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				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0134

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 believes his discharge is inequitable because his use of prescription and non-prescription medications gave a false positive result in his urine. He also mentions his post-service activities. 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 using marijuana. 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. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

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 87/04/16 UP AFR 39-10, para 5-49c (Commission of a Serious Offense - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 63/09/15. Enlmt Age: 22 0/12. Disch Age: 23 7/12. Educ:HS DIPL. AFQT: N/A. A-48, E-81, G-80, M-82. PAFSC: 57130 - Apprentice Fire Protection Specialist. DAS: 86/04/14.

b. Prior Sv: (1) AFRes 85/09/25 - 85/12/10 (2 months 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 85/12/11 for 4 yrs. Svd: 01 Yrs 04 Mo 06 Das, all AMS.

b. Grade Status: AB - 87/03/19
AMN - 86/06/11

c. Time Lost: none.

d. Art 15's: (1) 87/03/19, Castle AFB, CA - Article 15. You did, between about 20 Jan 87, and 27 Jan 87, wrongfully use marijuana. Reduction to AB, forfeiture of \$100.00 pay per month for two months. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 85/12/11 - 86/12/10 Castle AFB 8 (Annual)

(Discharged from Castle AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (06) Mos (22) Das
TAMS: (01) Yrs (04) Mos (06) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/02/22.
(Change Discharge to Honorable)

Issue 1: All issues are contained in the "my story" document. Some of these issues are as follows:

- * Documented history of illness, E.R. admissions, use of prescription and non-prescription medications.
- * Lack of knowledge of drug interaction giving "false positive" results that later information verified.
- * The over-sized military at the time and the zeal to down-size it. Many service organizations report a big jump in drug-related discharges during this time.
- * I was unfairly separated because a false positive drug screen given to me as a result of contracting a "unknown" illness and my hospital stay.
- * My character, Active member of the Church, returned missionary, supportive family.
- * After discharge: Years of pain, slow recovery, now: married (13yrs), 2 boys, firefighter-paramedic, instructor of medical Spanish course.

ATCH

1. VA Cover Letter.
2. Statement Supporting Application (My Story).
3. Two Certificates of Completion.
4. Certificate of Merit.
5. Five Certificates of Training.
6. DD Form 214.
7. Certificate of Attendance.
8. Certificate of Membership.
9. Certificate of Appreciation.
10. Copies of Membership Cards.
11. Certificates of Training.

02/07/09/ia

FD 2002-0134



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 93D COMBAT SUPPORT GROUP (SAC)
CASTLE AIR FORCE BASE, CALIFORNIA 95342-5000

REPLY TO
ATTN OF:

JA (Captain [REDACTED])

10 April 1987

SUBJECT:

Legal Review of AFR 39-10 Action [REDACTED], 93 CES)
93 CSG/CC

TO:

1. I have reviewed the attached AFR 39-10 separation action concerning AB [REDACTED], and find it legally sufficient.
2. BACKGROUND: On 3 April 1987, the Commander 93d Civil Engineering Squadron initiated this separation action pursuant to AFR 39-10, paragraph 5-49c, for drug abuse. He recommends a general discharge, without probation and rehabilitation. On 3 April 1987, the respondent acknowledged notification of this action, and on 8 April 1987, he waived his right to submit statements on his own behalf.
3. SUMMARY OF THE EVIDENCE:
 - a. Between 20 Jan 1987, and 27 Jan 1987, respondent used marijuana; as a result, he was punished in accordance with Article 15 of the UCMJ. Respondent's use of marijuana was discovered through a urinalysis test of his urine. Respondent consented to the submission of a sample of his urine for the urinalysis test. The test results indicating the presence of THC (Marijuana) in his urine were confirmed positive by the University of Utah; Center for Human Toxicology, a certified drug testing laboratory.
 - b. The respondent is 23 years old, single, and has one year and approximately four months of active military service. His record contains one APR with an overall rating of "8."
4. DISCUSSION: The evidence is legally sufficient by a preponderance of the evidence to sustain the respondent's discharge for misconduct based on drug abuse. Wrongful use of a controlled substance is the type of misconduct that is incompatible with Air Force standards. Respondent's involvement with marijuana demonstrates a flagrant disregard for state and federal law. In accordance with AFR 39-10, paragraph 5-45, a member who is discharged for misconduct, as contemplated by AFR 39-10, paragraph 5-49c, will normally receive a discharge under other than honorable conditions unless the facts of the particular case warrant the issuance of a better grade of discharge. In the instant case, the respondent's record reveals no other significant misconduct which would warrant a

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discharge under other than honorable conditions. However, drug abuse is a significant negative aspect of respondent's military career, and in accordance with AFR 39-10, paragraph 1-18, a general discharge is appropriate. Respondent has failed to demonstrate the potential to serve satisfactorily, as evidenced by his involvement with marijuana. Therefore, his retention, even in a probationary status, would be detrimental to good order and discipline. There are no administrative or procedural errors or irregularities in this case file which would affect the respondent's substantive rights. The respondent's commander has complied with the requirements of AFR 30-2.

5. OPTIONS OF THE SPCM CONVENING AUTHORITY: You may:

- a. Retain the respondent in the Air Force;
- b. Recommend to the general court-martial convening authority that the respondent be discharged because of misconduct, with an honorable discharge, with or without probation and rehabilitation; or
- c. Discharge the respondent because of misconduct, for the reasons alleged by his commander, with a general discharge, with or without probation and rehabilitation.

6. RECOMMENDATIONS: I agree with the initiating commander and recommend that respondent be discharged with a general discharge, without probation and rehabilitation.


 Lt Colonel, USAF
 Staff Judge Advocate

1 Atch
File

FD 2002 - 0134



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 93D COMBAT SUPPORT GROUP (SAC)
CASTLE AIR FORCE BASE, CALIFORNIA 95342-5000

REPLY TO
ATTN OF: 93 CES/CCQ

3 Apr 87

SUBJECT: Letter of Notification

TO: AB [REDACTED] 93 CES

1. I am recommending your discharge from the United States Air Force for the commission of a serious offense as evidence by your drug abuse. The authority for this action is AFR 39-10, paragraph 5-49c. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are: Between on or about 20 Jan 87 and 27 Jan 87 you wrongfully used marijuana, for which you received an Article 15. Copies of the document 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 bldg 411 on 8 Apr 87 at 0830. 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 8 Apr 87 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 Castle AFB Hospital at 0700 to the lab for testing on 9 Apr 87 (you need to fast for 24 hours if you have a family history of diabetes), then report to physical examinations at 1040 on the same day.

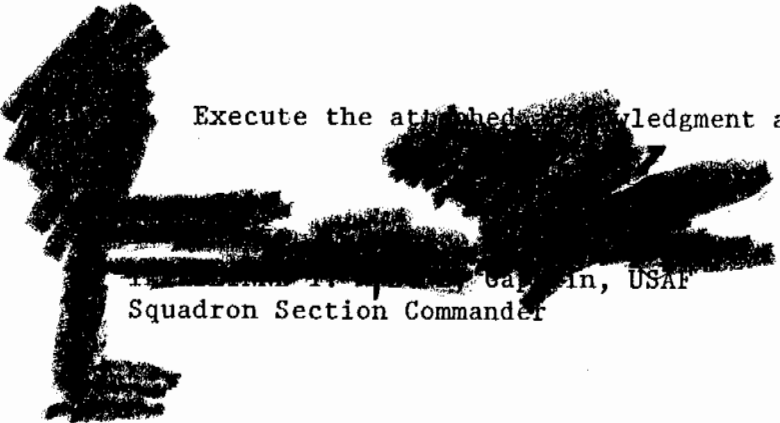
7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the orderly room.

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Execute the attached acknowledgment and return it to me immediately.



_____, Captain, USAF
Squadron Section Commander

6 Atch

- 1. AF Form 2731, 19 Mar 87
- 2. Hospital Letter, 19 Mar 87
- 3. AF Form 3070, 19 Mar 87
- 4. LOG, 20 Feb 87
- 5. LOG, 18 Aug 86
- 6. LOR, 29 Jul 86