

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD									
NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)					GRADE		AFSN/SSAN		
[REDACTED]					[REDACTED]		[REDACTED]		
TYPE GEN		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 A93.09, A92.37, A92.35		INDEX NUMBER A66.00			EXHIBITS SUBMITTED TO THE BOARD				
HEARING DATE 02-10-29		CASE NUMBER FD2002-0155			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 with/without counsel, and the right to submit an application to the AFBCMR.									
SIGNATURE OF RECORDER [REDACTED]					SIGNATURE OF BOARD PRESIDENT [REDACTED]				
INDORSEMENT					DATE: 02-10-29				
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

FD2002-0155

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 the applicant substantiates an impropriety or inequity that would justify an upgrade of the discharge to honorable.

Issues. Applicant was discharged for misconduct, namely drug abuse (marijuana), for which member received an Article 15. Member also had a Letter of Counseling for missing a mandatory Commander's Call formation, and had a Letter of Reprimand for leaving his duty section for 6 hours. Of his four Enlisted Performance Reports, two were rated an overall "3" and one of those was a referral that noted his failure to obey regulations, his being found asleep on post three times, driving without insurance and on a suspended license, and being counseled for being late to work three times in one month. The record shows that at the time of the discharge member consulted counsel yet waived his right to submit statements in his own behalf. He now infers his illegal marijuana use was a lapse of judgment due family problems and stress he experienced. He also notes he used marijuana twice; this would have rendered member ineligible for retention because multiple incidents of illegal drug use could not be viewed as "experimental" as required by the retention criteria. Furthermore, member did not request he be considered for retention at the time of the discharge, and had he, the burden would have been his to show he met the seven retention criteria. 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. Marijuana use is viewed as a very serious failure to meet Air Force standards. The Board noted that because drug abuse is not compatible with Air Force standards, the characterization of service he received is warranted.

Applicant cited his desire to receive his G.I. Bill education benefits as justification for an upgrade. While the Board was sympathetic to the impact of the loss of these benefits on applicant, this is not a matter of equity or propriety that warrants an upgrade.

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 01/05/11 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 77/11/05. Enlmt Age: 18 2/12. Disch Age: 23 6/12. Educ: HS DIPL. AFQT: N/A. A-76, E-58, G-64, M-55. PAFSC: 1N251 - Signal Intelligence Production Specialist. DAS: 99/10/21.

b. Prior Sv: (1) AFRes 96/01/16 - 96/09/03 (7 Mos 18 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 96/09/04 for 4 yrs. Svd: 4 Yrs 8 Mo 8 Das, all AMS.

b. Grade Status: AB - 00/11/13 (Article 15, 00/11/13)
SRA - 99/02/19
AMN/A1C (EPR Indicates): 96/09/04 - 98/04/15

c. Time Lost: None

d. Art 15's: (1) 00/11/13, Ft Meade, MD, Article 112a. You did, at or near Pasadena or Glen Burnie, Maryland, between 1 Jul 2000 and 30 Sep 2000, wrongfully use marijuana. Reduction to the grade of AB. (No appeal) (No mitigation).

e. Additional: None.

f. CM: None

g. Record of SV: 96/09/04 - 98/04/15 Misawa AB 4 (HAF Directed)
98/04/16 - 99/04/15 Misawa AB 3 (Annual) REF
99/04/14 - 00/08/14 Ft Meade 4 (Annual)
00/08/15 - 01/04/20 Ft Meade 3 (HAF Directed)

(Discharged from Ft Meade)

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

i. Stmt of Sv: TMS: (5) Yrs (3) Mos (26) Das
TAMS: (4) Yrs (8) Mos (8) Das



DEPARTMENT OF THE AIR FORCE
70th INTELLIGENCE WING (ACC)
FORT GEORGE G. MEADE, MARYLAND

MAY 4 2001

MEMORANDUM FOR 70 IW/CC

FROM: 70 IW/JA [REDACTED]

SUBJECT: Legal Review, Administrative Discharge
[REDACTED]

1. **Authority for Action:** I have reviewed the attached administrative discharge package in accordance with AFI 36-3208 and find it legally sufficient to support a finding that the Respondent, [REDACTED] is subject to discharge for Misconduct (Drug Abuse) under AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. All further paragraph references are to AFI 36-3208 unless specifically stated otherwise.
2. **Respondent's Military Record:** Respondent has been on active duty since 4 Sep 96. He is not entitled to an administrative board hearing based on time in service, grade, or any other factor. He has three Enlisted Performance Reports (4, 3, & 4).
3. **Respondent's Response:** [REDACTED] consulted with counsel and has chosen to waive his right to submit statements on his behalf.
4. **Analysis:**
 - a. **Basis and Propriety of Discharge:** The initiating commander has recommended [REDACTED] separation based on Paragraph 5.54. Paragraph 5.54 authorizes the involuntary separation of airmen who illegally, wrongfully, or improperly use, possess, sell, transfer, or introduce onto a military installation any drug, including both controlled and prescription drugs. According to paragraph 5.55.2, an airman found to have abused drugs will be separated unless he or she meets all seven of the following criteria: (1) drug abuse is a departure from the member's usual and customary behavior; (2) drug abuse occurred as a result of drug experimentation; (3) drug abuse does not involve recurring incidents; (4) the member does not desire or intend to engage in drug abuse in the future; (5) drug abuse under all the circumstances is not likely to recur; (6) under the particular circumstances of the case, the member's continued presence in the Air Force is consistent with the interest of the Air Force in maintaining proper discipline, good order, leadership, and morale; and (7) drug abuse did not involve distribution [REDACTED] wrongfully used marijuana and was given an Article 15 on 13 Nov 00. His use constitutes drug abuse within the meaning of paragraph 5.54 and therefore merits his involuntary separation. Accordingly, paragraph 5.55.2 mandates his separation from the U.S. Air Force since there is no evidence or indication that [REDACTED] meets all seven of the retention criteria.

b. Characterization of Discharge: His commander has decided not to submit a waiver recommendation of discharge under paragraph 6.60. According to paragraph 1.18.1, characterization of service as Under Honorable Conditions (General) is appropriate when significant negative aspects of an airman's conduct outweigh the positive aspects of his or her military record. [REDACTED] drug abuse is a significant departure from accepted behavior in the military and consequently overshadows any identifiable positive aspects of his military record. Accordingly, characterization of [REDACTED]'s service as Under Honorable Conditions (General) is appropriate.

c. Probation and Rehabilitation (P&R): According to paragraph 7.2.6, [REDACTED] is not eligible for P&R because the basis for this discharge is Drug Abuse, pursuant to paragraph 5.54.

5. Options: You may:

- a. Retain the Respondent if you determine the evidence does not support discharge;
- b. Forward the discharge package to the 8AF/CC recommending an Honorable discharge;
- c. Discharge him with an Under Honorable Conditions (General) discharge without probation and rehabilitation; or
- d. Direct reinitiation of the discharge under another section.

6. Recommendation: I recommend that you sign the attached letter directing [REDACTED] be discharged from the Air Force with an Under Honorable Conditions (General) discharge without probation and rehabilitation.

[REDACTED]
Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE
70th INTELLIGENCE WING (ACC)
FORT GEORGE G. MEADE, MARYLAND

20 Apr 01

MEMORANDUM FOR [REDACTED]

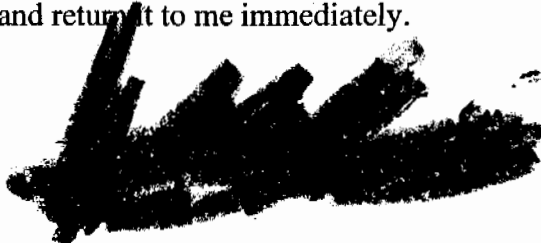
FROM: 29 IS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for **Misconduct, Drug Abuse**. The authority for this action is AFD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. 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 that between on or about 1 July 2000 and 30 September 2000 you wrongfully used marijuana, for which you received nonjudicial punishment under UCMJ, Article 15, on 13 Nov 00.
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 legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] **Andrews AFB, on 30 April 2001 at 1030**. You may consult civilian counsel at your own expense. *1 MAY*
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 **3 May 2001** 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 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 **Bolling AFB, Physical Exams Section, 202-767-4090, at 0830 on 26 April 2001** with your medical records 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 at the 29 IS orderly room or the Area Defense Counsel's office.

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



3 Attachments:

1. Supporting documents
 - (a) AF Form 3070, dated 2 Nov 00 (3 pages)
2. Other Derogatory Information
 - (a) Letter of Counseling, dated 24 Jul 00
 - (b) Letter of Reprimand, dated 5 Jan 99 (3 pages)
3. Airman's Receipt of Notification Memorandum