

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

| | | |
|--|---------------------|--------------------------------|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] | GRADE A1C | AFSN/SSAN [REDACTED] |
|--|---------------------|--------------------------------|

| | | | |
|--|-----------|---|----------------------|
| TYPE GEN | X | PERSONAL APPEARANCE | RECORD REVIEW |
| NAME OF COUNSEL AND OR ORGANIZATION | | ADDRESS AND OR ORGANIZATION OF COUNSEL | |
| YES | No | | |
| | X | | |

| MEMBER SITTING | HON | GEN | UOTHC | OTHER | DENY |
|-----------------------|-----|-----|-------|-------|------|
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |

| | | | | | | | | | | | | | | | | |
|-------------------------|--|---|---|----------------------------|---|-------------------------------------|---|------------------------|---|-------------------------|--|--------------------------------|--|--|--|---------------------------------------|
| ISSUES A94.53 | INDEX NUMBER A66.00 | <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; text-align:center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align:center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align:center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align:center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table> | 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 |
| 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 DATE 22 Oct 2004 | CASE NUMBER FD-2002-0404 | |
|------------------------------------|------------------------------------|--|

Case heard at Washington, D.C.

The applicant was scheduled for a personal appearance before the Discharge Review Board via video teleconference with Travis AFB, CA and Andrews AFB, MD, but failed to appear without requesting a postponement.

Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR

| | |
|--|---|
| SIGNATURE OF RECORDER [REDACTED] | CHIEF OF BOARD PRESIDENT [REDACTED] |
|--|---|

| | |
|--|---|
| TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002 |
|--|---|

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2002-0404

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

The applicant was scheduled for a personal appearance before the Discharge Review Board via video teleconference between Travis AFB, CA and Andrews AFB, MD, on October 22, 2004, but after acknowledging intent to appear failed to do so without requesting a postponement.

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 that would justify a change of discharge.

ISSUE: Applicant was discharged for drug abuse after a civilian arrest for public intoxication and possession of marijuana. At the time of the discharge, member admitted he had possessed the marijuana, but had only been holding it for his cousin. Member denied any pre-service or in-service illegal use of drugs, and requested he be retained. Member and his defense counsel argued that member met all seven retention criteria in that he had not distributed, used, or brought illegal substances on base. They also noted that possession of the marijuana was a departure from member's usual behavior, resulting from a lapse in judgment. After considering member's submission, the commander nevertheless determined discharge was appropriate. The Board concluded applicant's misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received was appropriate.

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 A1C) (HGH A1C)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 15 NOV 00 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 14 Oct 75. Enlmt Age: 22 4/12. Disch Age: 25 1/12. Educ: HS DIPL. AFQT: N/A. A-74, E-72, G-72, M-77. PAFSC: 2A332 - Avionics Systems Apprentice. DAS: 28 Dec 98.

b. Prior Sv: (1) AFRes 4 Mar 98 - 21 Apr 98 (1 month 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 22 Apr 98 for 6 yrs. Svd: 2 Yrs 6 Mo 25 Das, all AMS.

b. Grade Status: A1C - 6 Jun 98

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 25 SEP 00 - Civil arrest for possession of marijuana.

f. CM: None.

g. Record of SV: 22 Apr 98 - 21 Dec 99 Nellis AFB 3 (Initial)

(Discharged from Nellis AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (12) Das
TAMS: (2) Yrs (6) Mos (25) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 5 Sep 02.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

FD2002-0404

ATCH
None.

20DEC02/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR WARFARE CENTER (ACC)
NELLIS AIR FORCE BASE, NEVADA

02 NOV 2000

MEMORANDUM FOR 99 ABW/CC

FROM: AWFC/JA

SUBJECT: Legal Review of Administrative Discharge Proceedings Under AFI 36-3208,
Paragraph 5.54 - [REDACTED] 57 AGS

1. Background: On 30 Oct 00, the Squadron Commander, 57th Aircraft Generation Squadron, recommended the respondent, [REDACTED] be discharged for drug abuse under AFD 36-32 and AFI 36-3208, paragraph 5.54, with a general service characterization. IAW AFI 36-3208, Chapter 7, paragraph 7.2.6, probation and rehabilitation (P&R) is not available for airmen discharged for drug abuse. The case is being processed by notification procedure. As the separation authority, you have the following alternatives:

- a. Direct that the respondent be retained if you believe the member has met the criteria under AFI 36-3208, paragraph 5.55.2;
- b. Recommend to the General Court-Martial Convening Authority the respondent receives an honorable service characterization;
- c. Direct the respondent be discharged with a general service characterization; or,
- d. Direct reinitiation of this case IAW AFI 36-3208, Chapter 6, Section C, Board Hearing or Waiver, if you believe an under other than honorable conditions (UOTHC) service characterization is warranted.

2. Facts:

a. For the Government: [REDACTED] on or about 16 Jun 00, possess marijuana, a controlled substance. Specifically, he was arrested on or about 16 Jun 00 by a Santa Barbara County Sheriff for public intoxication and possession of marijuana. For his actions, he received a letter of reprimand and an unfavorable information file (UIF) was established.

b. For the Respondent: The respondent is a 25 year-old airman first class with over 2 years and 6 months of active military service. The respondent has received one enlisted performance report (EPR) with an overall rating of 3. He is entitled to wear the AF Training Ribbon. His test scores are: Admin-74, Elect-72, Gen-72, Mech-77. The respondent consulted with military legal counsel and submitted a statement for your consideration. The respondent states that he was

holding the marijuana for his cousin and had no intentions of using it. He also requested to stay in the Air Force.

c. The above information may be considered to determine whether the respondent is subject to discharge, whether he should be discharged, and if discharged, the characterization of his service.

3. Errors and Irregularities: There are no errors or irregularities prejudicial to the substantive rights of the respondent. This legal review is contingent upon the respondent receiving a physical exam and being found qualified for worldwide duty.

4. Authority: AFI 36-3208 regulates the administrative discharge of airmen and provides the following guidance relevant to this file:

a. A member is subject to discharge for drug abuse to include illegal, wrongful or improper use, possession, sale, transfer, or introduction onto a military installation of any controlled substance. This includes any intoxicating substance that is inhaled, injected, consumed, or introduced into the body in any manner for purposes of altering mood or function. In this case, the respondent had possession of marijuana. A member found to have possession of drugs will be discharged unless the member meets all seven criteria in AFI 36-3208, paragraph 5.55.2.1. IAW AFI 36-3208, when a commander has information indicating a member is subject to discharge for drug abuse, he/she must evaluate the specific circumstances of the offense, the member's records, and the member's potential for future service before taking action to either initiate discharge action or request a waiver of discharge.

b. A member subject to discharge may have his or her service characterized as honorable, under honorable conditions (general), or under other than honorable conditions (UOTHC). IAW AFI 36-3208, the service of a member discharged for drug abuse may be characterized as honorable only if the member voluntarily self-identifies for treatment of drug abuse. A general characterization is warranted when the negative aspects of an airman's conduct or performance outweigh other aspects of the airman's military record. An UOTHC may be appropriate when separation is based on a pattern of behavior that constitutes a significant departure from the conduct expected of an airman. An airman's service may only be characterized as UOTHC if the respondent is given an opportunity for a hearing by an administrative discharge board, a process that takes approximately two months to complete.

c. The Air Force program of P&R for airmen subject to administrative discharge gives them the opportunity to stay in the Air Force and get help so they may be able to serve until expiration of term of service (ETS). However, IAW AFI 36-3208, chapter 7, paragraph 7.2.6, P&R is not available for airmen discharged for drug abuse.

5. Analysis:

a. Drug use is incompatible with military service and airmen who abuse drugs one or more times are subject to discharge.

b. The respondent's commander has evaluated the specific circumstances of the offense, the respondent's record, and the respondent's potential for future service, and has concluded [REDACTED] should be discharged. Additionally, the respondent has clearly and specifically raised the limited circumstances of retention found in AFI 36-3208, paragraph 5.55.2. Specific findings regarding the existence of each of the limited circumstances warranting a member's retention are not required; however, our review reflects the respondent does not meet all seven criteria outlined in AFI 36-3208, paragraph 5.55.2. Therefore, under the circumstances, his continued presence in the Air Force would be inconsistent with the interest of the Air Force maintaining good order, discipline, leadership, and morale.

c. The respondent's actions and his failure to adhere to military standards substantially outweigh any positive aspects of his military career. Therefore, his actions merit a general discharge. Additionally, IAW AFI 36-3208, Chapter 7, paragraph 7.2.6, P&R is not available for airmen discharged for drug abuse.

6. Recommendation: That you approve the respondent's discharge from the United States Air Force with a general service characterization.

[REDACTED]
[REDACTED] Captain, USAF
Assistant Staff Judge Advocate

I concur.

[REDACTED]
[REDACTED] Colonel, USAF
Staff Judge Advocate

FD 2002 0409



DEPARTMENT OF THE AIR FORCE
57th AIRCRAFT GENERATION SQUADRON (ACC)
NELLIS AIR FORCE BASE, NEVADA

20 OCT 00

MEMORANDUM FOR [REDACTED] 57 AGS

FROM: CC

SUBJECT: Notification Memorandum - Administrative Discharge Under AFI 36-3208

1. I am recommending your discharge from the United States Air Force for drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service may be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reasons for this action are: You did, on or about 16 Jun 00, possess marijuana, a controlled substance. Specifically, you were arrested on or about 16 Jun 00 by a Santa Barbara County Sheriff for public intoxication and possession of marijuana. For your actions, you received a letter of reprimand and an unfavorable information file (UIF) was established.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial 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 the Area Defense Counsel at Bldg 625 (Old Hospital) on _____ at _____ hours. You may consult civilian counsel at your own expense.
5. You have the right to submit statements in your own behalf. **You have three (3) duty days (72 hours from the date/time served) to submit statements in your behalf.** Any statements you want the separation authority to consider must reach me by 25 Oct 00 at 1000 hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. In the event the commander exercising special court-martial jurisdiction or higher authority approves your discharge, separations will out-process you. Your initial separations briefing is scheduled for 20 Oct at 1400.
7. 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.

8. You have been scheduled for a medical examination at the 99th Medical Group on [redacted] at 0815 hrs.
9. 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 your Unit Orderly Room.
10. Execute the attached acknowledgment and return it to me immediately.

[Redacted Signature]

Commander [Redacted] USAF

Attachments:

1. LOR, 25 Sep 00 w/ atchs