

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <b>[REDACTED]</b>		GRADE <b>AB</b>	AFSN/SSAN <b>[REDACTED]</b>				
TYPE	<b>X PERSONAL APPEARANCE</b>		<b>RECORD REVIEW</b>				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	NO						
	<b>X</b>						
<b>MEMBERS SITTING</b> <b>[REDACTED]</b> <b>[REDACTED]</b> <b>[REDACTED]</b> <b>[REDACTED]</b> <b>[REDACTED]</b>			<b>VOTE OF THE BOARD</b>				
			HON	GEN	UOTHC	OTHER	DENY
							<b>X</b>
							<b>X</b>
							<b>X</b>
							<b>X</b>
ISSUES <b>A95.00</b>		INDEX NUMBER <b>A66.00</b>		<b>EXHIBITS SUBMITTED TO THE BOARD</b>			
HEARING DATE <b>5 FEB 03</b>		CASE NUMBER <b>FD2000-0167</b>		<b>1</b>	ORDER APPOINTING THE BOARD		
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE		
				<b>3</b>	LETTER OF NOTIFICATION		
				<b>4</b>	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 RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.							
REMARKS <b>Case heard at Travis AFB, California. Applicant was scheduled to appear before the DRB, but failed to respond.</b>  <b>Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.</b>							
SIGNATURE OF RECORDER <b>[REDACTED]</b>			SIGNATURE OF BOARD PRESIDENT <b>[REDACTED]</b>				
ENDORSEMENT				<b>DATE: 5 FEB 03</b>			
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 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002				

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD00-00167

**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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

**ISSUE:** The applicant submitted no issues and requested that the review be completed based on the available service record. 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 applicant received an Article 15 for wrongfully using marijuana. The Board concluded this disciplinary infraction 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)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 95/12/08 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 74/08/13. Enlmt Age: 18 10/12. Disch Age: 21 3/12. Educ:HS DIPL. AFQT: N/A. A-61, E-31, G-39, M-43. PAFSC: 2S031 - Inventory Management Apprentice. DAS: 94/02/04.

b. Prior Sv: AFRes 93/06/17 - 93/10/17 (4 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 93/10/18 for 4 yrs. Svd: 2 Yrs 1 Mo 21 Das, all AMS.

b. Grade Status: AB - 95/11/06 (ART 15, 95/11/06)

c. Time Lost: none.

d. Art 15's: (1) 95/11/06, Travis AFB, CA - Article 112a. You did, within the state of California, on divers occasions between o/a 29 Aug 95 and o/a 17 Sep 95, wrongfully use marijuana. Rdn to AB, and 15 days extra duty. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 93/10/18 95/06/17 Travis AFB 4 (Initial)  
(Discharged from Travis AFB)

h. Awards & Decs: AFTR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (22) Das  
TAMS: (2) Yrs (1) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/03/28.  
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

**ATCH**

1. Letter to the Discharge Review Board.
2. DD Form 214.
3. Discharge Package Letter.
4. AFI 36-3208 page 60.
5. Ten Character References.
6. Certificate of Completion.

00/04/26/ia



PARTMENT OF THE AIR FORCE  
HEADQUARTERS 60TH AIR MOBILITY WING (AMC)

4 DEC 1995

MEMORANDUM FOR 60 AMW/CC

FROM: 60 AMW/JA  
510 Mulheron Street  
Travis AFB CA 94535-2462

SUBJECT: Legal Review of Discharge Action Under AFI 36-3208,  
[REDACTED]

1. **Background:** On 24 Nov 95, [REDACTED], initiated this action against [REDACTED] (respondent) pursuant to AFI 36-3208, Section H, paragraph 5.54 for Drug Abuse and recommended a general discharge characterization. The 60 LG/CC concurred. Probation and rehabilitation is not authorized for drug abuse cases pursuant to AFI 36-3208, Chapter 7, para 7.2.6.
2. **Respondent's Personal Data:** This 21-year-old respondent with over 2 years of creditable service has received an enlisted performance report with an overall rating of "4." A detailed summary of his personal data is contained in paragraph 2 of the Commander's Recommendation for Discharge letter.
3. **Respondent's Statement:** The respondent was informed of his right to submit matters in response to this action. After conferring with counsel on 24 Nov 95, he submitted an undated statement asking you to consider the circumstances surrounding the initiating commander's reason for discharge. The respondent admits that "he made a major mistake and regrets it." He thought he needed friends; instead, he was caught up in the wrong crowd. He admitted to "doing something he did not want to do and is now paying for it." Finally, the respondent seeks retention or an honorable service characterization.
4. **Basis For Discharge:** Air Force regulations are quite specific: members will not use illegal drugs. Drug abuse is the illegal, wrongful, or improper use, possession, sale, transfer, or introduction onto a military installation of any drug. Specifically, on divers occasions, between on or about 29 Aug 95 and 17 Sep 95, in the State of California, the respondent wrongfully used marijuana. For these violations of Article 112a of the UCMJ, the respondent received an Article 15 dated 6 Nov 95 and as punishment was reduced to the grade of airman basic and received 15 days of extra duty.
5. **Appropriateness of Discharge:** 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 retain members, maintain public acceptability of military service, and prevent breaches of security. A member found to have abused drugs will be discharged unless the initiating commander recommends a waiver of discharge under AFI 36-3208, paragraph 6.60. In considering a waiver, the initiating commander must ensure the member meets all seven of the criteria for retention and consideration listed in paragraph 5.55.2.1, and they are as follows: (a) drug abuse is a departure from the member's usual and customary behavior; (b) drug abuse occurred as a result of drug experimentation; (c) drug abuse does not involve recurring incidents, other than drug experimentation; (d) the member does not desire to engage in or intend to engage in drug abuse in the future; (e) drug abuse under all the circumstances is not likely to recur; (f) under the particular circumstances of the case, the member's continued presence in the Air Force is consistent in maintaining proper discipline, good order, leadership, and morale; and, (g) drug abuse did not involve drug distribution. In his response, the respondent asserts that the drug use was the result of peer pressure and experimentation, that the use will not recur, and that he has a strong desire to remain

in the Air Force. However, the respondent bears the burden of proving that retention is warranted. In this instance, he did not specifically raise each of the seven retention and consideration criteria as required by AFI 36-3208, para. 5.55.2.2. Most notably absent is an assertion that he was not involved with drug distribution (there is no evidence of distribution) and that his continued presence in the Air Force would be consistent with proper discipline, good order, leadership, and morale. His failure to specifically raise these issues mandates his discharge. Even though the respondent had addressed these issues, it is unlikely he could prove that his continued presence was in the best interest of the Air Force. While peer pressure or experimentation might excuse his first use, by the second use he was familiar with the effects of the drug and had ample opportunity to avoid a similar situation. Moreover, prior to the second drug abuse incident at Lake Berryessa, the respondent was aware that one of the members of the group would bring back "good dope" from Oregon. Finally, he was using drugs with other military members, reducing the readiness of several individuals. Clearly the respondent did not meet his required burden as to this criteria. He must be discharged.

**6. Characterization of Service:** Discharges under paragraph 5.54 should usually be characterized as UOTHC. A UOTHC discharge is warranted when a member's improper acts represent a significant departure from the conduct expected of airmen. A general, under honorable conditions, discharge characterization is appropriate if an airman's service has been honest and faithful but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. A discharge should be honorable only if the respondent's service has been so meritorious that any other characterization would be clearly inappropriate. The respondent requests an honorable discharge. I disagree. An honorable characterization is reserved for those airmen who served honorably, and he does not meet this standard. There is no other derogatory data in the respondent's case file. Considering the respondent's misconduct, his age, experience, and brief time in the service, a general discharge is appropriate. The respondent's drug use outweighs the positive aspects of his military record.

**7. Probation and Rehabilitation (P&R):** P&R is not authorized for drug abuse cases pursuant to AFI 36-3208, Chapter 7, paragraph 7.2.6.

**8. Errors or Irregularities:** None.

**9. Options:** As Special Court-Martial Convening Authority (SPCMCA), you personally approve or disapprove recommendations for discharge processed by notification according to AFI 36-3208, Chapter 6, Section B, resulting in a general discharge under Section H. As the SPCMCA, you may:

- a. Direct this action be withdrawn and retain the respondent;
- b. Discharge the respondent with a general discharge without P&R;
- c. Forward the case to 15 AF/CC with a recommendation for an honorable discharge without P&R; or
- d. Direct reinitiation for processing IAW AFI 36-3208, Chapter 6, Section C - Board Hearing or Board Waiver, if you believe the issuance of a UOTHC is warranted.

10. **Recommendation:** Discharge the respondent with a general discharge without P&R. Further recommend you bar the respondent from Travis AFB by signing Attachment 2.

[Redacted]  
[Redacted], USAF  
Asst Chief, Military Justice Division

Attachments:

- 1. Proposed Letter
- 2. Barment Order
- 3. Case File ([Redacted])

Concur:

[Redacted]

[Redacted]  
[Redacted], USAF  
Deputy Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE  
60TH SUPPLY SQUADRON (AMC)

24 NOV 1995

MEMORANDUM FOR: [REDACTED]


FROM: 60 SUPS/CC  
350 Hangar Avenue  
Travis AFB CA 94535-2631

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, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable, general or under other than honorable conditions. I am recommending that your service be characterized as general.
2. The basis on which I am initiating this action is that between on or about 29 Aug 95 and 17 Sep 95, you wrongfully used marijuana. For this misconduct, you received an Article 15 dated 6 Nov 95 with punishment of reduction to the grade of airman basic and 15 days extra duty.
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 counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED], Area Defense Counsel, telephone number 424-4569, Bldg 163, on 29 NOV 95, at 1030 hours. You may consult civilian counsel at your own expense.
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 (three work days from service of this letter) 29 NOV 95, no later than 1630 hours 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 own behalf, your failure will constitute a waiver of your right to do so.
7. You have been scheduled for a physical examination. You must report to David Grant Medical at 0800 hours on 29 NOV 95 for a medical 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 in the orderly room.



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

  
Commander USAF

Attachments:  
1. Article 15, 6 Nov 95