

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]		
TYPE PERSONAL APPEARANCE		X RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO				
	X				
MEMBERS SITTING		NOTE OF THE BOARD			
		HON	GEN	UOTHC	OTHER
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
ISSUES A93.17		INDEX NUMBER A67.10, A67.70		EXHIBITS SUBMITTED TO THE BOARD	
				1	ORDER APPOINTING THE BOARD
				2	APPLICATION FOR REVIEW OF DISCHARGE
				3	LETTER OF NOTIFICATION
HEARING DATE 6 FEB 03		CASE NUMBER FD2000-0339		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 RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE					
REMARKS <p>Case heard at Travis AFB, California. Applicant was scheduled to appear before the DRB, but failed to respond.</p> <p>Advise applicant of the decision of the Board, the right to a personal appearance and the right to submit an application to the AFBCMR.</p>					
SIGNATURE OF RECORDER [REDACTED]			SIGNATURE OF BOARD PRESIDENT [REDACTED]		
INDORSEMENT			DATE: 6 FEB 03		
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

FD00-0339

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 the evidence of record or that provided by the applicant substantiates an inequity or an impropriety that would justify a change of discharge.

ISSUE: The applicant was discharged Misconduct - Minor Disciplinary Infractions. His offenses included receiving an Article 15 for being derelict in the performance of his duties in that he willfully failed to follow established regulations and guidelines by wrongfully allowing a civilian person to accompany him while on patrol. In addition, he received two Letters of Reprimand and three Letters of Counseling for violation of orders, missing an appointment, lack of professionalism, being removed from Phase II for lack of seriousness of training, and reporting late to training class. The applicant states that new personnel to the flight who didn't like him, was the reason for his misconduct. He also mentions his good service while in the military. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case

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.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/12/04 UP AFI 36-3208, para 5.54 & 5.49 (Drug Abuse & Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/05/27. Enlmt Age: 17 9/12. Disch Age: 20 6/12. Educ:HS DIPL. AFQT: N/A. A-54, E-44, G-44, M-26. PAFSC: 3P031 - Security Forces Apprentice. DAS: 97/11/22.

b. Prior Sv: AFRes 97/03/18 - 97/07/08 (3 months 21 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 97/07/09 for 4 yrs. Svd: 2 Yrs 4 Mo 26 Das, all AMS.

b. Grade Status: AB - 99/08/11 (Article 15, 99/08/14)
A1C - 98/11/09
AMN - 98/01/09

c. Time Lost: none.

d. Art 15's: (1) 99/08/11, Misawa AB, Japan - Article 112a. You did, o/a 1 Jan 99 and o/a 24 Apr 99, wrongfully use marijuana on divers occasions. Rdn to AB, forfeiture of \$250.00 pay per month for 2 months, 30 days restriction, 30 days extra duty, and a reprimand. (No appeal)
(No mitigation)

(2) 99/03/22, Misawa AB, Japan - Article 92. You, who should have known of your duties, were derelict in the performance of those duties in that you willfully failed to report a major vehicle accident, as it was your duty to do. Rdn to Amn (susp til 21 Sep 99), 14 days extra duty, 14 days restriction, and forfeiture of \$251.00.
(Appeal/Denied) (No mitigation)

e. Additional: LOR, 28 MAY 99 - Failure to go.
LOC, 04 MAY 99 - Late for duty.
LOR, 28 DEC 98 - Failure to go.
LOR, 25 DEC 98 - Failure to go.

f. CM: none.

g. Record of SV: 97/07/09 99/03/08 Misawa AB 4 (Initial)

99/03/09 99/08/25 Misawa AB 1 (CRO)
(Discharged from Little Rock AFB)

h. Awards & Decs: AFTR, AFOSLTR.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (17) Das
TAMS: (2) Yrs (4) Mos (26) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 00/08/22.
(Change Discharge to Honorable)

Issue 1: My outlook on the Air Force at the time was not good at first. I let my job (Security Police) stress get best of me. I have been trying to get back in the services ever since Dec when I was discharged. I have been working every (sic). I'm 21 now and still have time to make a change.

Issue 2: The reason for my discharge was drugs. I lied because I never used marijuana in the military and my urinalysis speaks for itself. I even took a lie detector which backed up my truth.

Issue 3: I have been studying and getting ready for the ASVAB test again and I look forward and pray for a second chance with the United States Air Force. I did not put my best foot when I had the chance at first but I would not disapoint (sic) you and your decission (sic). Thank you.

Issue 4: Within the two years I served I had a chance to visit Saudi, Korea, Japan, Itali (sic), Ireland. I enjoyed the military but I let my young mind (which will never happen again) make the wrong decision. Thank you.

ATCH
none.

00/09/22/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

05 NOV 1999

MEMORANDUM FOR 35 FW/CC

FROM: 35 FW/JA

SUBJECT: Legal Review of Administrative Discharge – [REDACTED]
[REDACTED] 35 SFS

1. I have reviewed the administrative discharge case file in the matter of [REDACTED] (Respondent) and subject to the inclusion of the medical report of his physical examination, find it legally sufficient. I concur with the commander's recommendation that Respondent should receive a general (under honorable conditions) discharge without probation and rehabilitation (P&R) in accordance with AFI 36-3208, *Administrative Separation of Airmen*, paragraphs 5.54 and 5.49 for misconduct consisting of drug abuse and minor disciplinary infractions. Respondent's drug abuse should be cited as the primary reason for discharge.

2. LEGAL BASIS FOR DISCHARGE

a. Major Rector, Respondent's commander, recommends that [REDACTED] be discharged under AFI 36-3208, paragraphs 5.54 and 5.49, for misconduct consisting of drug abuse and minor disciplinary infractions. Administrative discharge under paragraph 5.54 is proper if evidence indicates that an airman abused drugs one or more times. Administrative discharge under paragraph 5.49 is proper if documented evidence confirms that an airman failed to comply with nonpunitive regulations or committed minor offenses under the Uniform Code of Military Justice which resulted in counseling, letters of reprimand, or nonjudicial punishment.

b. Respondent's administrative discharge package includes the following documented offenses:

(1). Between 1 Jan 99 and 24 Apr 99, Respondent wrongfully used marijuana. For this misconduct, he received an Article 15 and Unfavorable Information File entry (UIF).

(2). On 5 Mar 99, Respondent failed to report a major vehicle accident. For this misconduct, he received an Article 15 and a UIF.

(3). On 27 May 99, Respondent failed to report for the 35 FW Fun Run and was late for duty. For this misconduct, he received a Letter of Reprimand (LOR)

(4). On 4 May 99, Respondent was late for duty. For this misconduct, he received a Letter of Counseling.

(5). On 27 Dec 98, Respondent failed to report to duty for guardmount. For this misconduct, he received an LOR.

(6). On 25 Dec 98, Respondent failed to report to duty for guardmount. For this misconduct, he received an LOR.

c. The cited incidents of misconduct constitute legally sufficient bases for discharge for drug abuse and minor disciplinary infractions. Based on Respondent's serious misconduct, considered with his entire military record, [REDACTED] should be discharged.

3. FOR THE RESPONDENT: Respondent is 20 years old. He was assigned to the 35th Security Forces Squadron on 22 Nov 97. His total active federal military service date is 9 Jul 97. Respondent has received the Air Force Training Ribbon. Respondent has waived his right to submit matters for your consideration (Tab 3, Atch 3).

4. SERVICE CHARACTERIZATION: Major Rector recommends that Respondent's service should be characterized as general (under honorable conditions) based on Respondent's conduct consisting of drug abuse and minor disciplinary infractions. In accordance with AFI 36-3208, paragraph 1.18, a general discharge is appropriate when significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of the member's record. Respondent's misconduct outweighs the positive aspects of his record. The record supports Major [REDACTED] recommendation for a general discharge. Considering Respondent's misconduct, as well as his otherwise average duty performance, a general discharge is appropriate.

5. PROBATION AND REHABILITATION: Respondent is not an appropriate candidate for P&R under AFI 36-3208, chapter 7. Respondent's misconduct demonstrates his inability or unwillingness to meet appropriate standards of conduct. Furthermore, in accordance with AFI 36-3208, paragraph 7.2.6, a member approved for discharge for drug abuse is not eligible for P&R.

6. SEPARATION AUTHORITY OPTIONS: As the separation authority, you may take one of the following actions:

a. Retain Respondent;

b. Forward the case to 5 AF/CC with a recommendation of an honorable discharge, if you find that the member's service is otherwise so meritorious that any other characterization would be inappropriate;

c. Direct that Respondent be discharged with a general discharge based on Respondent's drug abuse with or without P&R;

d. Direct that Respondent be discharged with a general discharge based on Respondent's minor disciplinary infractions with or without P&R;

e. Direct that Respondent be discharged with a general discharge based on Respondent's drug abuse and minor disciplinary infractions citing Respondent's drug abuse as the primary reason;

f. Direct that Respondent be discharged with a general discharge based on Respondent's drug abuse and minor disciplinary infractions citing Respondent's minor disciplinary infractions as the primary reason; or

g. Offer respondent an opportunity for a hearing by an administrative discharge board if you feel respondent's service should be characterized as under other than honorable conditions.

7. CONCLUSIONS AND RECOMMENDATIONS

a. I find:

(1) The reasons cited as the bases for discharge (drug abuse and minor disciplinary infractions) in the commander's Letter of Notification are supported by a preponderance of the evidence and are appropriate bases for discharge;

(2) The recommendation of a general discharge is warranted and appropriate in this case pursuant to the criteria outlined in AFI 36-3208, paragraph 1.18 given Respondent's misconduct;

(3) Respondent is not a suitable candidate for P&R given his minor disciplinary infractions nor is he eligible for P&R under the criteria of AFI 36-3208, paragraph 7.2.6 because of his drug abuse.

b. I recommend that you sign the proposed letter directing that Respondent be discharged from the Air Force with a general discharge without probation and rehabilitation for misconduct consisting of drug abuse and minor disciplinary infractions, citing drug abuse as the primary reason for Respondent's discharge.





DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

MEMORANDUM FOR [REDACTED] 35 SFS

FROM: 35 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for drug abuse and misconduct consisting of minor disciplinary infractions in accordance with AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraphs 5.54 and 5.49. This action could result in your separation with an under other than honorable conditions discharge (UOTHC). I am recommending that you receive a general discharge with the primary reason due to your drug abuse.

2. My reasons for this action are:

a. Between 1 Jan 99 and 24 Apr 99, you wrongfully used marijuana. For this misconduct, you received an Article 15 and Unfavorable Information File entry (UIF).

b. On 5 Mar 99, you failed to report a major vehicle accident. For this misconduct, you received an Article 15 and a UIF.

c. On 27 May 99, you failed to report for the 35 FW Fun Run and were late for duty. For this misconduct, you received a Letter Of Reprimand (LOR)

d. On 4 May 99, you were late for duty. For this misconduct, you received a Letter of Counseling.

e. On 27 Dec 98, you failed to report to duty for guardmount. For this misconduct, you received an LOR.

f. On 25 Dec 98, you failed to report to duty for guardmount. For this misconduct, you received an LOR.

3. Copies of the documents to be forwarded to the separation authority are attached. The commander exercising SPCM jurisdiction, or a higher authority will decide whether you will be discharged or remain 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 Captain Spore, the Area Defense Counsel, at Building 527, on 28 Oct 99, 1999, at 0800 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 within three workdays of your receipt of this Notification Memorandum, unless you request and receive an extension for good cause. I will forward them to the separation authority.

6. If you fail to consult counsel, or to submit statements in your own behalf within the time allotted, your failure shall constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 35th Medical Group, on 28 OCT, 1999, at 1000 hours. If you wear glasses, you must bring your glasses to the examination. If you wear contacts, you must remove them the night before the examination. *YOU ALSO HAVE A MEDICAL EXAMINATION ON 28 OCT 1999 AT 1540 HRS AT PRIMARY CARE.*

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 Office of the Area Defense Counsel, Building 527, your orderly room, or the Base Publications Library.

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



Date 27 OCT 99

7 Attachments:

- 1. Article 15, dtd 11 Aug 99
- 2. Article 15, dtd 22 Mar 99
- 3. AF Form 1137, undated
- 4. LOR, dtd 28 May 99
- 5. LOC, dtd 4 May 99
- 6. LOR, dtd 28 Dec 98
- 7. LOR, dtd 28 Dec 98