

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

TYPE UOHC	X PERSONAL APPEARANCE	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	UOHC	OTHER	DENY					
[REDACTED]				X					
[REDACTED]				X					
[REDACTED]				X					
[REDACTED]				X					
[REDACTED]				X					

ISSUES A94.05	INDEX NUMBER A67.70	EXHIBITS SUBMITTED TO THE BOARD		
		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	
HEARING DATE 5 FEB 03	CASE NUMBER FD01-00145			

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

REMARKS

Case heard at Travis AFB, CA

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

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
[REDACTED]	[REDACTED]

INDORSEMENT	DATE: 6 FEB 03
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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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2001-0290

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

The applicant appeared and testified before the Discharge Review Board without counsel at Travis AFB, California, on February 5, 2003.

The following additional exhibits were submitted at the hearing: Exhibit #6: Character Letter from [REDACTED] 3 Feb 03; Exhibit #7: Intel Employee Evaluation (16 Dec 00 – 15 Dec 01); Exhibit #8: ITT Technical Institute Certificates (2); Exhibit #9; ITT Technical Institute Certificate – Associates in Electronics Engineering Technology; Exhibit #10: ITT Technical Institute Transcript.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of the characterization of the discharge is denied.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change in the characterization of the discharge.

ISSUES: Applicant received an Under Other Than Honorable Conditions (UOTHC) discharge pursuant to his request to be discharged in lieu of court-martial (Chapter 4) for drug abuse – use of methamphetamine. Applicant contends his discharge was inequitable because it was based on one isolated incident of misconduct and did not take into account his good duty performance and the assistance he provided to the Office of Special Investigations (OSI) resulting in the successful apprehension and prosecution of two other airmen involved in the manufacture, distribution, and use of methamphetamine.

Review of the record discloses the member was charged with use of methamphetamine and as a result, was facing trial by court-martial. After referral of charges, the applicant voluntarily submitted a Chapter 4 request. The record clearly indicates the applicant's request to be discharged instead of proceeding to trial was granted because of the quality of the assistance the applicant provided to OSI. The only alternative available to the applicant was to proceed to trial by court-martial, which certainly would have resulted in his conviction for use of methamphetamine based in large part on his confession. It is therefore clear to the Board that by receiving the Chapter 4 discharge, the applicant did get the benefit of his service to OSI. Air Force policy in effect at the time of applicant's discharge, and now, provides that when a member requests discharge in lieu of court martial, it is customary they receive a UOTHC characterization of service. Applicant chose not to be tried, and was fully aware he would likely receive a UOTHC discharge. Furthermore, the Board noted that drug abuse is not compatible with Air Force standards, it is a serious breach of discipline, and a gross deviation from standards expected of an airman. Such unacceptable conduct adversely overshadows the applicant's otherwise good duty performance and his assistance to OSI. Moreover, given the applicant's drug use, the UOTHC characterization is an appropriate description of the applicant's overall 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

FD2001-0290

[REDACTED]
(Former A1C) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a UOTH Dish fr USAF 96/03/07 UP AFI 36-3208, para 4.12 (Discharge in Lieu of Court Martial). Appeals for HON Disch.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 01/04/26/ia.

b. The AFDRB reviewed case on 01/06/15 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 01/07/02. (Change Discharge to Honorable)

I think my "Under Than Honorable Conditions" Discharge that I received when I was released from the United States Air Force active duty to my lack of good judgment was justified and should not be argued. However, since my release, I have attended college and received an Associate of Applied Science Degree in Electronic Engineering Technology. While in college, I held a full time job and also joined the Tennessee Army National Guard working as a Cobra helicopter mechanic. After graduating I received a job with ----- Corporation, and computer microprocessor manufacturer, as a maintenance technician on the tool-set used in the manufacturing process. I have been with them since September of 2000 in Chandler Arizona. I also transferred from the Tennessee Army National Guard to the Arizona Air National Guard as a fuel cell mechanic on the KC-135. I have been a member of the National Guard now since February of 1999. I graduated collage (sic) with honors and have had excellent service while in the National Guard and have not been in any trouble since my release; not even so much as a speeding ticket.

I would like my discharge upgraded to Honorable, even though I made a mistake in the past, because I have worked hard to prove myself and excelled in school and continue to serve in the United States Military. I have a family with two young children that I need to be an example to. I have learned from my (sic) mistakes

and I don't want a discharge on my record that may hold me back in any way in the near or distant future.

Thank you for your consideration.

Atch

1. Letter to the Discharge Review Board.

01/10/30/ia

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

(Former A1C) MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 96/03/07 UP AFI 36-3208, para 4.12 (Discharge in Lieu of Court Martial). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 75/09/25. Enlmt Age: 17 6/12. Disch Age: 20 5/12. Educ:HS DIPL. AFQT: N/A. A-40, E-70, G-53, M-69. PAFSC: 2A333B - Tactical Aircraft Maintenance. DAS: 94/03/13.

b. Prior Sv: AFRes 93/03/31 - 93/09/22 (5 months 22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 93/09/23 for 4 yrs. Svd: 2 Yrs 5 Mo 15 Das, all AMS.

b. Grade Status: A1C - 95/01/23
AMN - 94/03/23

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: none.

g. Record of SV: 93/09/23 95/05/22 Hill AFB LOST
95/05/23 96/01/16 Hill AFB 2 (CRO)REF
(Discharged from Hill AFB)

h. Awards & Decs: AFAM, NDSM, SWASM W/1 BSS, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (11) Mos (7) Das
TAMS: (2) Yrs (5) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 00/11/30.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

FD 2001-0290

FD01-00121

ATCH
none.

01/04/26/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, OGDEN AIR LOGISTICS CENTER (AFMC)
HILL AIR FORCE BASE, UTAH

MEMORANDUM FOR 75th ABW/CC
OO-ALC/CC

FROM: OO-ALC/JAJ

SUBJECT: Legal Review - Request for Discharge in Lieu of Trial by Court-Martial, [REDACTED]

1. We have reviewed the referenced action in accordance with AFI 36-3208, paragraph 4.12, and consider it legally sufficient to be either approved or disapproved.
2. This action was initiated by the applicant on 7 December 1995. The 34th FS/CC, [REDACTED] recommends that the discharge be approved.
3. Charges have been preferred, but not yet referred to trial by special court-martial.
4. The statutory basis for this action is Title 10, United States Code, Section 1169.
5. In accordance with AFI 36-3208, paragraph 4.4.2, the 75th ABW commander is the reviewing authority. The 75th ABW commander's options are to:
 - a. recommend approval of the request and, together with a recommendation as to the type of discharge, send your recommendation to the General Court-Martial Convening Authority; or
 - b. recommend disapproval of the request and forward your recommendation to the general court-martial convening authority.
6. In accordance with AFI 36-3208, paragraph 4.12, the OO-ALC commander, as general court-martial convening authority, is the approval/disapproval authority. The center commander's options are to:
 - a. reject the request and allow the applicant to stand trial; or
 - b. accept the request and order an honorable discharge, general discharge, or discharge under-other-than-honorable conditions, with or without probation or rehabilitation.
7. We recommend that this case be forwarded to OO-ALC/CC with a recommendation that the request be approved and the applicant be given an under-other-than-honorable-conditions (UOTHC) discharge without probation and rehabilitation. [REDACTED] is accused of wrongfully using methamphetamine. The charge arose when OSI received information that [REDACTED] were allegedly manufacturing and using methamphetamine at an off base residence. OSI determined that [REDACTED] did apparently use methamphetamine, but that he was not involved in the manufacture of the drug. [REDACTED] cooperated with OSI and our office in building a case against [REDACTED]. I believe approval of this discharge is in our best interest. It is unlikely that [REDACTED] would have been successfully prosecuted without the cooperation of [REDACTED]. In fact, it was the potential testimony of [REDACTED] that persuaded [REDACTED] to plead guilty. The Article 32 Investigating Officer, [REDACTED] recommended trial by special court-martial, or an offer of non-judicial punishment under Article 15. It is the belief of [REDACTED] that [REDACTED] better treatment than the other two parties involved. Due to [REDACTED] cooperation and the nature of the offense charged, I recommend that the

Chapter 4 be approved and he be discharged with an under other-than-honorable conditions discharge (UOTHC) without probation and rehabilitation.

8. We note no administrative errors of legal significance.



Attachments:

1. 34 FS/CC ltr
2. Chapt 4 Request w/atch

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 34th FIGHTER SQUADRON (ACC)
HILL AIR FORCE BASE, UTAH

28 FEB 96

MEMORANDUM FOR OO-ALC/JA
75 MSS/DPMP
75 MSS/DPMP
75 MSS/DPM
75 ABW/CC
OO-ALC/CC
IN TURN

FROM: CC

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial, [REDACTED]
[REDACTED] 34th Fighter Squadron

1. I recommend that the attached request for discharge in lieu of trial by court-martial be approved for the following reasons:

a. [REDACTED] has been charged with wrongful use of methamphetamine.

b. Up to this time [REDACTED] duty performance has been satisfactory. [REDACTED] has cooperated fully with the government in the investigations of [REDACTED] Feebeck and [REDACTED] [REDACTED] for manufacturing methamphetamine. But for [REDACTED] cooperation, the government would not be able to successfully prosecute these other cases. Compared to the allegations against [REDACTED] and [REDACTED] one time use is relatively minor. Under the circumstances, I believe it would be in our best interest to approve this discharge.

2. If this request for discharge is approved, I recommend that [REDACTED] be given an under-other-than-honorable-conditions discharge (UOTHC) without probation and rehabilitation. I have made no promises or representations to [REDACTED] regarding the type of discharge he would receive.

3. [REDACTED]

a. is not presently under investigation;

b. is not awaiting action under AFR 39-10, AFR 35-4, or any other section of this regulation;

c. is not awaiting result of trial ;

- d. is not absent without authority;
- e. is not absent in hands of civil authorities;
- f. has not been referred to a medical facility for examination;
- g. is not in default with respect to public property or public funds;
- h. has not completed 16 or more years of active military service; and
- i. is not accountable or responsible for public property or funds.

4. There has not been a report of recent misconduct that is not addressed above.

5. Court-martial charges have been preferred. Attached are:

- a. a copy of the charges, DD Fm 458, Charge Sheet; and
- b. other information or evidence pertinent to the case.

6. Charges have not been referred for trial.

7. At the time of the misconduct, [REDACTED] did not have a mental disease or defect that caused him to lack substantial capacity either to appreciate the criminality of the acts, or to conform to the law. [REDACTED] presently has the capacity to understand the nature of the proceedings against him and to assist in his defense.

8. [REDACTED] does not hold an Air Force Reserve appointment as a commissioned or warrant officer.

9. Information from the military record follows:

a. Date and term of enlistment: 23 September 1993, for four years. Date this period of continuous active duty started: 23 Sept 1993. Pay date: 23 Sept 1993. TAFMSD: 23 Sept 1993. No prior service.

b. Date of birth: 25 Sept 1975

c. Test scores: ADM - 40, ELECT - 70, GEN - 53, MECH - 69

d. Formal training: None

e. Date assigned unit: 13 March 1994

f. Current grade and effective date: A1C, effective 23 Jan 1995

g. Demotions: None

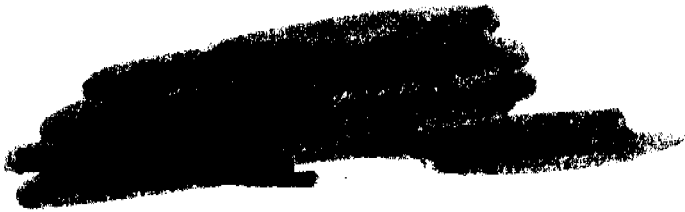
h. Time lost: None

i. No record of previous disciplinary actions.

j. No EPRs are attached. [REDACTED] has had one EPR, but it is lost.

k. Awards and decorations: AF Achievement Medal, Southwest Asia Service Medal w/one device, AF Training Ribbon.

l. No derogatory data.



Attachments:

1. Discharge Request w/atch
2. Charge Sheet