

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE SSGT	AFSN/SSAN [REDACTED]																																				
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW																																				
COUNSEL YES NO [REDACTED] X		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL																																			
MEMBERS SITTING		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="5">VOTE OF THE BOARD</th> </tr> <tr> <th>HON</th> <th>GEN</th> <th>UOTHC</th> <th>OTHER</th> <th>DENY</th> </tr> <tr> <td></td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>X</td> <td></td> <td></td> <td></td> </tr> </table>			VOTE OF THE BOARD					HON	GEN	UOTHC	OTHER	DENY		X					X					X					X					X			
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HEARING DATE 20 JUN 03		CASE NUMBER FD2001-0485																																					
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 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: 20 JUN 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

GENERAL: The applicant appeals for an Honorable Discharge.

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 to Honorable is denied. However, an Upgrade to General is approved.

ISSUE: Applicant contends that his discharge was too harsh and states that he has never developed a pattern of drug use let alone abuse drugs. The records indicate the applicant was discharged with a Under Other Than Honorable Conditions (UOTHC) discharge for Misconduct – Commission of a Serious Offense, specifically, drug abuse. After a thorough and complete consideration of the information submitted by the applicant and information contained in the record, the Board concluded there was sufficient mitigation and extenuation to substantiate upgrade of the 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.

However, in view of the foregoing finding, the Board further concludes that the overall quality of the applicant's service is more accurately reflected by a General discharge. The Board concluded that the Reason and Authority of the applicant's discharge were appropriate due to drug abuse.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]
(Former SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 01/10/31 UP AFI 36-3209, Chapter 3, para 3.21.3.2 (Misconduct - Commission of a Serious Offense - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 61/06/28. Enlmt Age: 21 2/12. Disch Age: 40 4/12. Educ: HS DIPL. AFQT: N/A. A-37, E-41, G-32, M-51. PAFSC: 3E051 - Electrical Systems Maintenance Journeyman. DAS: 00/08/21.

b. Prior Sv: (Examiner's Note: Due to some missing enlistment documents, TAMS numbers are approximated).

(1) USARes 82/09/21 - 82/10/26 (1 month 5 days) (Inactive).

(2) Enlisted USA for 3 yrs. Svd: 3 yrs 0 months 0 days, all AMS.

(3) Enlisted ARNG 86/11/21 for 3 yrs. Extended 88/09/18 for 3 yrs. Svd: 3 yrs 9 months 17 days, of which AMS is 2 months.

(4) Enlisted USAFNG 90/09/08 for 6 yrs. Extended 92/05/02 for 19 months. Svd: 7 yrs 7 months, 23 days, of which AMS is 2 months 14 days. SP4(E-4)-88/10/26. SGT(E-5)-90/04/30. No performance reports in file.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as SSgt USAFRes 98/05/01 for 6 yrs. Svd: 3 Yrs 5 Mo 30 Das, of which AMS is 2 months 29 days.

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: none.

e. Additional: none.

f. CM: none.

g. Record of SV: none.

(Discharged from Robins AFB)

h. Awards & Decs: AFTR, ARGCM, AFLSAR W/2 DEV, AROSSR, ARSR.

i. Stmt of Sv: TMS: (19) Yrs (01) Mos (10) Das
TAMS: (3) Yrs (7) Mos (13) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/10/24.
(Change Discharge to Honorable)

Issue 1: Discharge characterization is improper. It should be honorable in accordance with AFI 36-3209, para A2.2 et seq; AFR 20-10, para 19e, DODD 1332.28 atch 4, Wood v. Secretary of Defense, 196 F. Supp 192 (D.C. Dist 1980) (see especially p. 197 dicta) and Doe v. Secretary of the Air Force, 563 F. Supp 4 (D.C. Dist 1982).

Issue 2: I ----- have never developed a pattern for drug use let alone abuse drugs.

Issue 3: My work history show through drug testing that I never came up positive for drug use.

Issue 4: Also, on the day of hearing the expert representing the Gov't. did not show up for the hearing and refuse to allow my representing counsel to argue a letter she submitted. By not returning his phone calls.

Issue 5: Two weeks prior to my hearing (Discharge) I talk (sic) to my appointed Govt. (sic) counsel Capt ----- and gave him information on the witness who brought illegal contraband into my home. Capt -----, took the information and sent the witness -----, certified mail to testify in behalf of my Discharge Board Hearing. Mr. ----- never recieved (sic) certified mail because I recently found out Mr. ----- has been incarcerated since the beginning of Jun 2001 for reason unknown to me. He is presently serving time in ----- County Jail -----.

ATCH

1. Applicant Memo to Discharge Review Board.
2. Character Reference.
3. Occupational Health Report.
4. Employee Consent and Verification For Drug Testing.
5. Hq Air Reserve Personnel Center Stop Loss Letter, 27 Sep 01.
6. Discharge Approval Letter, 11 Oct 01.

02/02/04/ia



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

FD 2001-0485

JAN 2 2 2001

MEMORANDUM FOR SSGT [REDACTED]
[REDACTED]

Tacoma WA 98499-9329

FROM: HQ AFRC/DPM
155 Richard Ray Blvd
Robins AFB GA 31098-1635

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum separation action is being initiated against you for misconduct, commission of a serious offense, drug abuse. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.21.3.2. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. Supporting documents from investigative reports may be obtained by contacting Capt [REDACTED], a Judge Advocate as indicated in paragraph 3a. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions) and Under Other Than Honorable Conditions. The type of separation recommended in your case is an Under Other Than Honorable Conditions Discharge.

2. Within 24 hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.

3. The following is a summary of your rights:

a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no cost to you. You may also consult with civilian legal counsel of your choice, but at your own expense. Capt [REDACTED], a judge advocate who is qualified under Article 27 (B)(1), has been designated to represent you in connection with this separation action. His mailing address is HQ AFRC/JAS, 155 Richard Ray Blvd, [REDACTED]. His phone numbers are DSN 497-[REDACTED], 1-800-[REDACTED] extension 7-[REDACTED], or commercial (478) [REDACTED].

b. You have the right to submit pertinent statements and/or documents in your behalf which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 Richard Ray Blvd, Robins AFB GA 31098-1635.


c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 Richard Ray Blvd, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. Information regarding an administrative discharge board is provided at Attachment 7.

5. You are not eligible to apply for transfer to the Retired Reserve.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes are attached (Atch 8) for your convenience.


LT Col, USAFR
Chief, Military Personnel Operations
Military Personnel Division

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/
Supporting Documentation
3. Acknowledgment of Receipt
4. Selection of Rights
5. Request for Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Envelopes (2)

cc:

HQ AFRC/JAS
446 MSS/DPMSA (Relocations) wo Attachments



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

FD 2001-0485

OCT 11 2001

MEMORANDUM FOR DPM

FROM: CV

SUBJECT: Administrative Discharge, SSgt [REDACTED]

I have reviewed the attached administrative discharge board transcript on SSgt [REDACTED]. The evidence in the file proves he tested positive for tetrahydrocannabinol during a random urinalysis test. Due to the nature of this offense, I hereby approve his separation from the United States Air Force Reserve with an Under Other than Honorable Conditions Discharge in accordance with AFI 36-3209, paragraph 3.21.3.2, Misconduct, Commission of a Serious Offense, Drug Abuse. I also deny suspension of the discharge for the purpose of receiving probation and rehabilitation in accordance with AFI 36-3209, paragraph 3.25.

[REDACTED]
Maj Gen, USAF
Vice Commander

Attachment:
Case File, SSgt [REDACTED]

FD 2001-0485

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE RESERVE COMMAND
155 RICHARD RAY BLVD
ROBINS AIR FORCE BASE, GEORGIA 31098-1635

RESERVE ORDER

16 October 2001

A-008

The Air Force relieves SSGT [REDACTED] (AFSC: 3E452; functional account code: 440D00; position control number: 006896711) from assignment 446th Civil Engineering Squadron, McChord AFB WA and discharges him from the United States Air Force Reserve effective 31 October 2001. Service is characterized as Under Other Than Honorable Conditions. Mailing address: [REDACTED] Tacoma WA 98499-9329. Authority: AFI 36-3209, Misconduct, Commission of Serious Offense, Drug Abuse. Reenlistment Eligibility status: INELIGIBLE.

FOR THE COMMANDER



[REDACTED] USAF
Chief, Military Personnel Division
Directorate of Personnel

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RO A-008