

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ████████████████████	<b>GRADE</b> A1C	<b>AFSN/SSAN</b> ██████████
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<b>TYPE</b>	<b>PERSONAL APPEARANCE</b>	<b>X RECORD REVIEW</b>				
<b>COUNSEL</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<table border="1"> <tr> <td><b>YES</b></td> <td><b>NO</b></td> </tr> <tr> <td></td> <td>X</td> </tr> </table>	<b>YES</b>	<b>NO</b>		X		
<b>YES</b>	<b>NO</b>					
	X					

<b>MEMBERS SITTING</b>	<b>VOTE OF THE BOARD</b>				
	<b>HON</b>	<b>GEN</b>	<b>UOTHC</b>	<b>OTHER</b>	<b>DENY</b>
████████████████████					X
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<b>ISSUES</b> A94.01, A94.05	<b>INDEX NUMBER</b> A66.00	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
		<b>1</b>	ORDER APPOINTING THE BOARD
<b>HEARING DATE</b> 2 JUN 03	<b>CASE NUMBER</b> FD2002-0112	<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 RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

**REMARKS**  
 Case heard at Scott AFB, Illinois.  
  
 Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.

<b>SIGNATURE OF RECORDER</b> ████████████████████	<b>SIGNATURE OF BOARD PRESIDENT</b> ████████████████████
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<b>INDORSEMENT</b>	<b>DATE: 4 JUN 03</b>
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<b>TO:</b> SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD2002-0112

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable.

The applicant's appeal was heard by the Discharge Review Board (DRB), at Scott AFB, IL on June 2, 2003. The applicant did not appear.

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

**FINDINGS:** Upgrade of discharge to Honorable is denied.

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

**ISSUES:** The applicant was discharged with a General Discharge for misconduct or, more specifically, drug abuse. The applicant was court-martialed for numerous uses of marijuana, a Schedule I controlled substance, and for numerous uses of methamphetamine, also a Schedule I controlled substance. He was confined for 10 months, reduced in rank, and assessed forfeitures, but did not receive a punitive discharge. In addition to the drug use for which he was court-martialed, his records (referencing the investigation into his drug use) indicate involvement with cocaine and LSD, also Schedule I controlled substances. He was subjected to discharge and waived his board hearing in exchange for no less than a General service characterization. Applicant now states that he should have been given an honorable discharge because the characterization he received was too harsh under the circumstances. The DRB disagreed and concluded that the characterization of the applicant's discharge was appropriate given the nature of the applicant's misconduct, involving as it did extensive use and association with illegal drugs. Moreover, the DRB could discern no evidence of any impropriety or inequity associated with the applicant's 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. Having found no inequity or impropriety, the DRB denies the requested relief.

Attachment:  
Examiner's Brief

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

[REDACTED]  
[REDACTED]

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/08/13 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 74/06/01. Enlmt Age: 17 9/12. Disch Age: 25 2/12. Educ:HS DIPL. AFQT: N/A. A-45, E-48, G-48, M-88. PAFSC: 2A333A - Tactical Aircraft Maintenance Apprentice. DAS: 96/03/28.

b. Prior Sv: (1) AFRes 92/03/24 - 92/07/14 (3 months 21 days) (Inactive).

(2) Enlisted as AB 92/07/15 for 4 yrs. Extended for 7 months. Svd: 3 yrs 1 month 0 days, all AMS. AMN - 93/01/15. A1C - 93/11/15. SRA - 95/07/15. EPRs: 2,4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SRA 95/08/15 for 4 yrs. Svd: 03 Yrs 11 Mo 28 Das, of which AMS is 3 yrs 5 months 24 days (excludes 6 months 4 days lost time).

b. Grade Status: A1C - 99/02/08 (GCMO# 9, 99/04/01)

c. Time Lost: 99/01/25 thru 99/07/29 (6 months 4 days).

d. Art 15's: none.

e. Additional: none.

f. CM: General Court Martial Order No. - 99 April 01

CHARGE: Article 112a. Plea: Guilty. Finding: Guilty.

Specification 1: Did, on divers occasions between on or about 1 Feb 98 and on or about 30 Sep 98, wrongfully use marijuana. Plea: Guilty. Finding: Guilty.

Specification 2: Did, on divers occasions between on or about 28 Mar 96 and on or about 19 Sep 98, wrongfully use methamphetamine. Plea: Guilty. Finding: Guilty, except the words "28 March 1996" and the words "19 September." Substituting therefor the words "1 February 1998" and the words "31 March," respectively, of the excepted words NG, of the substituted words Guilty. Sentence: adjudged by military judge on 25 January 1999. Confinement for ten months, forfeiture of all pay and allowances, and reduction to airman first class.

g. Record of SV: 95/03/15 - 96/01/31 Eglin AFB 4 (CRO)  
 96/02/01 - 97/01/31 Elmendorf AFB 5 (Annual)  
 97/02/01 - 97/12/12 Elmendorf AFB 5 (CRO)  
 97/12/13 - 98/12/12 Elmendorf AFB 2 (Annual) REF

(Discharged from Elmendorf AFB)

h. Awards & Decs: AFAM W/1 DEV, AFLSAR, AFTR, SWASM W/1 DEV, NDSM, SAEMR, AFEM, KLM, AFUA, AFGCM W/1 DEV.

i. Stmt of Sv: TMS: (06) Yrs (09) Mos (22) Das  
 TAMS: (06) Yrs (06) Mos (02) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/04.  
 (Change Discharge to Honorable)

Issue 1: The veteran was on active duty in the United States Air Force for a total of six years and eleven months. During his first six years of service he performed his duties without any disciplinary infractions. He was awarded two good conduct awards, the Air Force Achievement Award, the Air Force Longevity Service Award, the Southwest Asia Service Medal, the Kuwait Liberation Medal, the Air Force Outstanding Unit Award and the Armed Forces Expeditionary Medal. He was a credit to the Air Force and to his country. In his seventh year of active service he began using marijuana and was court martialed for this inappropriate behavior. The court martial resulted in a General Discharge Under Honorable Conditions.

The veteran believes that the punishment he received for his inappropriate conduct was far too severe in that it was the first and only discipline he received while on active service. He requests that his discharge be upgraded to enable him to live the remainder of his life with a record of honorable service to his country.

**ATCH**

1. DD Form 214.

02/06/26/ia



DEPARTMENT OF THE AIR FORCE  
PACIFIC AIR FORCES

MEMORANDUM FOR 3 WG/CC

MAR 16 1999

FROM: 3 WG/JA  
2900 9<sup>th</sup> Street, Suite 330  
Elmendorf AFB AK 99506-2470

SUBJECT: Legal Review - Administrative Discharge - A1C [REDACTED]

1. Lt Col [REDACTED] 19 FS/CC, recommends that A1C [REDACTED] be discharged pursuant to AFI 36-3208, paragraph 5.54, for misconduct based on drug abuse. He further recommends that A1C [REDACTED] conditional waiver of his right to an administrative board hearing, in exchange for receiving no less than a general discharge, be accepted and A1C [REDACTED] be separated with a general discharge. The reasons set forth in the Commander's Recommendation for Discharge Letter with accompanying documentation are legally sufficient to support discharge action under this provision of the instruction. Prior to final discharge, A1C [REDACTED] will be medically cleared for separation.

2. FACTS:

a. The event upon which this discharge is based occurred during A1C [REDACTED] current enlistment, which began on 15 Aug 95, and is detailed below:

Between 1 Feb 98 and 30 Sep 98, then SrA [REDACTED] did on divers occasions wrongfully use marijuana. Between 1 Feb 98 and 31 Mar 98, then SrA [REDACTED] did wrongfully use methamphetamine. For these offenses he plead guilty before a general courts-martial and was sentenced to confinement for 10 months, total forfeitures of all pay and allowances, and reduction to the rank of airman first class. This offense is evidenced by an Air Force Form 1359 (Report of Result of Trial), and a stipulation of fact signed by then SrA Holmquist.

b. Other derogatory data or disciplinary conduct:

On 19 Oct 97, then SrA [REDACTED] was derelict in the performance of his duty in that he failed to document on aircraft forms that he had removed a broken position light from the aircraft. For this offense he received a Letter of Admonition.

3. Airmen subject to separation for misconduct based on drug abuse may be discharged under honorable, general, or under other than honorable conditions and are not eligible for probation and rehabilitation (P&R). The 19th Fighter Squadron Commander recommends A1C [redacted] conditional waiver of his administrative board hearing rights, in exchange for receiving no less than a general discharge, be accepted. I concur with that recommendation.

4. After consulting counsel, A1C [redacted] elected not to submit a statement for consideration.

5. LEGAL ANALYSIS: AFI 36-3208, paragraph 1.21.3, states that if the basis for discharge is a court-martial conviction that does not contain a punitive discharge, the lowest characterization of discharge authorized is a general discharge unless approved by the Secretary of the Air Force. 11 AF/JA informs us that unless additional adverse actions are included in the discharge that were not included in the court-martial, Air Force policy has been to award no less than a general discharge. Accordingly, in this case, we believe that even if a board awards an under other than honorable conditions discharge, the Secretary of the Air Force will not approve it. Moreover, a discharge board in this case will be extremely expensive and time-consuming because we may have to produce airmen who were convicted in related cases as witnesses in the board. I therefore recommend you forward this case file to 11 AF/CC with the recommendation that he approve the conditional waiver and separate the respondent with a general discharge.

6. Pursuant to AFI 36-3208, paragraph 5.56.2, 11 AF/CC is the separation authority for this discharge action. You may take the following actions in this case:

a. Forward this case file to 11 AF/CC with your recommendation that this action be discontinued and A1C [redacted] be retained because he meets all seven criteria set forth in paragraph 5.55.2.1 of AFI 36-3208;

b. Reject A1C [redacted] conditional waiver and direct he present his case to an administrative discharge board pursuant to AFI 36-3208, Chapter 6, Section 3;

c. Forward this case file to 11 AF/CC with your recommendation that the conditional waiver be accepted and A1C [redacted] be separated from the United States Air Force with a General Discharge; or

d. Forward this case file to 11 AF/CC with your recommendation that the conditional waiver be accepted and A1C [redacted] be separated from the United States Air Force with an Honorable Discharge.

7. RECOMMENDATION: I recommend you forward this case file to 11 AF/CC with your recommendation that he accept the conditional waiver and discharge A1C [REDACTED] from the United States Air Force under the provisions of AFI 36-3208, paragraph 5.54, with a general discharge.

[REDACTED]

Lt Col, USAF

Staff Judge Advocate

Attachment:  
Case File (A1C Holmquist)

DEPARTMENT OF THE AIR FORCE  
PACIFIC AIR FORCES

MAR 10 1999

MEMORANDUM FOR 19 FS/MAOB (A1C [REDACTED])

FROM: 19 FS/CC

SUBJECT: Notification Memorandum--Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct based on drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.54. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached.

2. My reason for this action is:

Between on or about 1 Feb 98 and on or about 30 Sep 98, you did on divers occasions wrongfully use marijuana. Between on or about 1 Feb 98 and on or about 31 Mar 98, you did wrongfully use methamphetamine. For these offenses you plead guilty before a general courts-martial and were sentenced to confinement for 10 months, total forfeitures of all pay and allowances, and reduction to the rank of airman first class. This offense is evidenced by an Air Force Form 1359 and a stipulation of fact.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces, and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to:

- a. Receive written notice of the reasons for discharge, including the circumstances upon which each reason is based, and the least favorable type of separation authorized.
- b. Receive copies of the documents to be forwarded to the separation authority in support of the recommendation for discharge.
- c. Consult legal counsel. Military legal counsel will be detailed to assist you.
- d. Request a hearing before an administrative discharge board.
- e. Present written statements in addition to, or in lieu of, the board proceedings.



f. Be represented before the board by Area Defense Counsel assigned to the installation or by military counsel of your choice, if the counsel of choice is reasonably available, but not by both. The availability of counsel of choice will be determined according to AFI 51-201, Military Justice Guide.

g. Be represented before the board by civilian counsel. Civilian counsel may be employed only at your own expense.

h. Waive any of the above rights. Your failure to respond, after being given a reasonable opportunity to consult counsel, constitutes a waiver of all rights listed above except the first two. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for medical examinations. You must report to the 3rd Aerospace Medicine Squadron, Bldg 24-850 at 0930 on 10 Mar 99 with your medical records. You are to fast (drink water only) for 14 hours, refrain from alcohol for 72 hours, and refrain from the use of tobacco products for 6 hours, prior to examination. Bring eyeglasses (and contact solution if using contacts) if applicable. You must be in uniform for these examinations.

6. Capt [REDACTED] has been appointed as military legal counsel to assist you. He can be reached at DSN 368-[REDACTED], at 17800 13th St, Ste 108, Beale, CA 95903-1524. Instead of the appointed counsel, you may have another attorney represent you, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply in writing, within 7 duty days, specifying the rights, if any, you choose to exercise. This statement must be signed in the presence of your counsel who will also sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. You have been scheduled for a Transition Assistance Program briefing. You must report to the Family Support Center at \_\_\_\_\_ on \_\_\_\_\_. You have also been scheduled for a TMO Household Goods Shipment preprocessing briefing. You must report to Bldg 2-900 (People Center), Rm 247 at \_\_\_\_\_ on \_\_\_\_\_.

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 at your Squadron Orderly Room.

10. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

11. Execute the attached Receipt of Notification Memorandum and return it to me immediately.



Lt Col, USAF

Commander

**Attachments:**

- 1. AF Form 1359, 25 Jan 99
- 2. Letter of Admonition, 26 Sep 97