

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
		SRA				
TYPE GEN	PERSONAL APPEARANCE		X 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	UOTIC	OTHER	DENY
		X*				
		X*				
		X*				
		X*				
					X	
ISSUES A93.08, A01.14		INDEX NUMBER A66.00		EXHIBITS SUBMITTED TO THE BOARD		
				1	ORDER APPOINTING THE BOARD	
HEARING DATE 03-01-10		CASE NUMBER FD2002-0174		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		
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
REMARKS						
<p>* Change Reason and Authority for discharge to Secretarial Authority.</p> <p>Case heard at Washington, D.C.</p> <p>Advise applicant of the decision of the Board.</p>						
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT			
INDORSEMENT			DATE: 03-01-10			
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

FD97-00339

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

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

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

FINDINGS: The discharge is upgraded to Honorable, and the reason for discharge is changed to Secretarial Authority.

Issues. Member received a general discharge for drug abuse after she made a signed, sworn written admission of one-time marijuana use in the fall of 1999, during an Air Force Office of Special Investigations (AFOSI) interview on September 11, 2001. Applicant contends her spouse influenced her; he was a former military member who had been discharged for misconduct, and who was using marijuana daily. He supposedly requested she use marijuana with him, to which she normally refused. But on one occasion, she agreed. Member also claimed her spouse mentally, verbally, and eventually physically abused her. They eventually separated, but reconciled after she visited him and became pregnant with twins. Although he claimed he would change, his drug and spouse abuse allegedly continued. Member subsequently reported her husband's drug abuse to her First Sergeant; he referred her to family advocacy. They referred her to AFOSI. In the course of reporting her husband's activity, AFOSI asked if she had participated. That's when she admitted her one-time use. The records disclosed a history of family advocacy program entries from July to October of 1999, and again from September of 2001 to January 2002. They also revealed a complete denial of pre-service drug use by applicant on her enlistment documents. At the time of the discharge, member requested retention and argued that she met the seven retention criteria for drug abusers. Her commander didn't feel her claims were credible and recommended denial of the retention waiver. The discharge authority upheld that recommendation. After a thorough and complete consideration of the information submitted by the applicant and contained in the record, the Board concluded there was sufficient mitigation to substantiate upgrade of the discharge and to change the reason for 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 findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable and Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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

[REDACTED]
(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 02/04/08 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/02/25. Enlmt Age: 18 7/12. Disch Age: 23 1/12. Educ: HS DIPL.
AFQT: N/A. A-95, E-44, G-57, M-13. PAFSC: 4N051 - Medical Service Journeyman.
DAS: 98/07/25.

b. Prior Sv: (1) AFRes 97/09/26 - 97/12/02 (2 months 7 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

~~a. Enlisted as A1C 97/12/03 for 4 yrs. Extended 01/09/07 for 4 months.~~
Svd: 04 Yrs 04 Mos 06 Das, all AMS. (Examiner's Note: Member served beyond DOS due to stop loss).

b. Grade Status: SRA - 00/04/03

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 24 JAN 02 - Smoking marijuana.
RIC, 05 FEB 99 - Failure to report to a mandatory appointment.

f. CM: None.

g. Record of SV: 97/12/03 - 99/07/15 Ramstein AB 4 (HAF Dir)
99/07/16 - 00/07/15 Ramstein AB 4 (Annual)
00/07/16 - 01/07/15 Ramstein AB 5 (Annual)

(Discharged from Ramstein AB)

h. Awards & Decs: AFTR, AFLSAR, AFOUA, AFGCM, AFOSLTR, MSJB.

i. Stmt of Sv: TMS: (04) Yrs (06) Mos (13) Das
TAMS: (04) Yrs (04) Mos (06) Das

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

NO ISSUES SUBMITTED.

ATCH

1. Two Statements by Applicant.
2. Letter of Reprimand, 24 Jan 02.
3. Response to Letter of Reprimand, 28 Jan 01.
4. Seven Character References.
5. Notification Memorandum, 12 Feb 01.
6. ADC Extention Request, 14 Feb 02.
7. Response to Involuntary Discharge, 19 Feb 02.
8. Waiver of Discharge Recommendation, 11 Mar 02.
9. Question/Comments.
10. Notes/Thoughts.
11. Memorandum For 86 MSS/DPMAS, 19 Mar 02.
12. Report of Investigation.
13. Copy of AFPAM 36-2241V1, 01 Jul 01, page 200 through 204.

02/09/11/ia



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

13 MAR 02

MEMORANDUM FOR 86 AW/CC

FROM: 86 AW/JA

SUBJECT: Legal Review of Discharge - [REDACTED]

1. I have reviewed the administrative discharge action against [REDACTED], initiated on 12 February 2002 by [REDACTED], 86 AMDS/CC, and find it legally sufficient to support discharge.

2. BASIS FOR THE ACTION: Administrative discharge action was initiated pursuant to AFI 36-3208, paragraph 5.54, Drug Abuse. [REDACTED], 86 AMDS/CC, recommends a discharge characterization of General (Under Honorable Conditions). [REDACTED] discharge is based upon her wrongful use of marijuana, a Schedule I controlled substance. For this behavior she received a Letter of Reprimand (LOR) dated 24 January 2002.

3. MATTERS SUBMITTED BY THE RESPONDENT: [REDACTED] submitted a request for waiver of discharge under AFI 36-3208, Paragraph 5.55.2.

4. DISCUSSION:

a. [REDACTED] actions fit the definition of drug abuse in AFI 36-3208, paragraph 5.54.

b. I note no errors or irregularities that affect [REDACTED] legal rights.

c. [REDACTED] discharge package was delayed pending the commander's decision on [REDACTED] request for waiver of discharge, which he recommended be denied.

d. According to AFI 36-3208, paragraph 5.55.2.1, a member found to have abused drugs will be discharged unless the member meets all seven of the following criteria:

(1) Drug abuse is a departure from the member's usual and customary behavior;

(2) Drug abuse occurred as the result of drug experimentation (a drug experimenter is defined as one who has illegally or improperly used a drug for reasons of curiosity, peer pressure, or other similar reasons);



(3) Drug abuse does not involve recurring incidents, other than drug experimentation as defined above;

(4) The member does not desire to engage in or intend to engage in drug abuse in the future;

(5) Drug abuse under all the circumstances is not likely to recur;

(6) Under the particular circumstances of the case, the member's continued presence in the Air Force is consistent with the interest of the Air Force in maintaining proper discipline, good order, leadership, and morale; and

(7) Drug abuse did not involve drug distribution.

e. The member has the burden of proving retention is warranted under the above seven circumstances. [REDACTED] asserts she meets the seven criteria. Her commander believes that her retention would not be consistent with the maintenance of good order and discipline in his unit. He believes the facts and circumstances of this case indicate [REDACTED] level of use may be more than she has admitted. Although she has been a good performer during the last rating period, at the time of the offense she was an average performer. She had a couple of disciplinary issues during this time period that would have led the commander to recommend separation had he been aware of the offense at this point. The commander recommends denial of the waiver, I concur.

f. [REDACTED] continued active duty is not compatible with the Air Force's interest in maintaining discipline, good order, leadership, and morale because drug abuse is incompatible with military service.

5. OTHER MATTERS: Before [REDACTED] can be discharged, she must be found medically qualified for worldwide duty in accordance with AFI 36-3208, paragraph 6.3. [REDACTED] medical appointment was set for 12 February 2002, and processing should not be delayed to wait for the medical report.

6. CHARACTERIZATION OF SERVICE:

a. Characterization of service should be based on the quality of the member's service in the current enlistment. The respondent has more than 4 years of military service. Her current enlistment began on 3 December 1997 for a term of 4 years. She also had an extension approved for four months making her estimated time of separation date 2 April 2002. However, her separation is on hold due to Stop Loss. [REDACTED] has had three enlisted performance reports with ratings of 5, 4, and 4.

b. The service of an airman discharged for drug abuse may be characterized as honorable, general, or under other than honorable conditions (UOTHC). A UOTHC discharge characterization is not currently authorized because the respondent was not offered a board hearing.

c. An honorable characterization is warranted when an airman's service generally has met Air Force standards of acceptable conduct and the member's duty performance has otherwise been so meritorious that any other characterization would be inappropriate.

d. A general characterization is warranted when 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.

e. In this case, use of marijuana constitutes a significant negative aspect that outweighs the positive aspects of [REDACTED] military record. The respondent's commander recommends a general discharge. I agree.

7. PROBATION AND REHABILITATION: Under AFI 36-3208, paragraph 7.2.6, airmen are not eligible for probation and rehabilitation if the reason for discharge is drug abuse.

8. ACTIONS WHICH MAY BE TAKEN: As the Special Court-Martial Authority, you have the following options:

a. If you find the respondent meets the seven criteria for a waiver, forward the case file to 3 AF/CC recommending approval of the waiver;

b. Forward the case file to 3 AF/CC, recommending the respondent be separated from the USAF with an honorable discharge;

c. Return the case file to the unit for processing as an administrative discharge board case. This would permit a service characterization of UOTHC;

d. Find there is no credible evidence of drug abuse and terminate this discharge action; or

e. If you find the respondent does not meet the seven criteria for a waiver, direct she be separated from the USAF with a general discharge.

9. RECOMMENDATION: Find that [REDACTED] does not meet the seven criteria for a waiver and direct she be separated from the USAF with a general discharge by signing Attachment 1.

[REDACTED]
[REDACTED]
[REDACTED], USAF
Staff Judge Advocate

Attachments:

1. Proposed Memo for 86 AW/CC
2. Discharge Package
3. Respondent's Documentation
 - a. Receipt of Notification Memorandum, 12 Feb 02
 - b. Member's Response, 19 Feb 02



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

FEB 12 2002

MEMORANDUM FOR [REDACTED] 86 AMDS

FROM: 86 AMDS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for 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 or general. I am recommending that your service be characterized as general (under honorable conditions).

2. My reason for this action is that you wrongfully used marijuana, a Schedule I controlled substance. For this incident, you received a Letter of Reprimand dated 24 January 2002 (Atch 1a).

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 USAF, and any special pay, bonus, or education assistance funds may be subject to recoupment.


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 with [REDACTED], Area Defense Counsel, Ramstein AB, GE, Building 2111, DSN 480-2182/2492 on 19 Feb 02 at 0830 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 19 Feb 02 at 1545 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 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 medical evaluation. You must report in uniform with your medical records and an escort to the Ramstein AB Clinic, Physical Exams, Building 2121 on 12 Feb 02 at 1300 hours for the evaluation. If an examination is required, tell the doctor you need a "separation" physical examination. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them.

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.


USAF
Commander

Attachments:

1. Supporting Documents:

- a. LOR, 24 Jan 02
- b. OSI Report of Investigation, 21 Nov 01
- c. ROIC, 5 Feb 99

2. Airman's Receipt of Notification Memorandum
