

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

TYPE	<input checked="" type="checkbox"/> 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	UOTHC	OTHER	DENY
[REDACTED]	X				
[REDACTED]	X				
[REDACTED]	X				
[REDACTED]					X
[REDACTED]	X				

ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD			
A94.06	A66.00	1	ORDER APPOINTING THE BOARD		
		2	APPLICATION FOR REVIEW OF DISCHARGE		
		3	LETTER OF NOTIFICATION		
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE		
20 NOV 02	FD02-0256		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 Dobbins ARB, Georgia
 Advise applicant of the decision of the Board.

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

ENDORSEMENT

DATE: 20 NOV 02

TO:	FROM:
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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

FD2002-0256

GENERAL: The applicant appeals for upgrade of discharge to Honorable and change the RE Code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Dobbins ARB, GA on November 19, 2002. Mr. [REDACTED], the applicant's father, appeared as a witness.

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

FINDINGS: Upgrade of discharge to Honorable is granted and reason for discharge changed to Secretarial Authority. However, the reenlistment code will not be changed.

The Board finds that the evidence of record substantiates an inequity that would justify upgrade of the discharge.

ISSUES: The applicant was discharged with a General Discharge for Misconduct – Drug Abuse. The records indicated the applicant received a Summary Court Martial for wrongfully distributing percocet. After a thorough and complete consideration of the information submitted by the applicant, the applicant's compelling personal testimony, and information contained in the record, the Board concluded that there was sufficient mitigation and extenuation to substantiate upgrade of the discharge and to change the reason for the discharge. The Board voted to leave the applicant's reenlistment code as is.

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 also concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge. The applicant's characterization 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

MISSING MEDICAL RECORDS

[REDACTED]
[REDACTED]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 00/06/07 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge and Change the Reentry Code.

2. **BACKGROUND:**

a. DOB: 79/08/24. Enlmt Age: 19 6/12. Disch Age: 20 9/12. Educ: HS DIPL. AFQT: N/A. A-53, E-18, G-25, M-11. PAFSC: 2S031 - Supply Management Apprentice. DAS: 99/08/26.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 99/03/10 for 4 yrs. Svd: 1 Yr 2 Mos 28 Das, all AMS.

b. Grade Status: AMN - 00/05/19 (SCM, 00/05/19)
A1C - 00/01/10

c. Time Lost: None.

d. Art 15's: None.

e. Additional: RIC, 11 APR 00 - Damage to government property.
RIC, 2 FEB 00 - Failure to obey and order.
RIC, 1 FEB 00 - Failure to meet two mandatory appointments.

f. CM: Summary Court Martial - 2000 May 11.

CHARGE: Article 112a(d)1. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Offutt Air Force Base, Nebraska, between on or about 18 Nov 99 and on or about 31 Dec 99, wrongfully distribute percocet, a schedule II controlled substance. Sentence approved by the convening authority on 19 May 00. Reduction to the grade of AMN, and confinement for 9 days.

g. Record of SV: None.

(Discharged from Offutt AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yr (2) Mos (28) Das
TAMS: (1) Yr (2) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/06/10.
(Upgrade Discharge to Honorable and Change Reentry Code)

ISSUES ATTACHED TO BRIEF.

ATCH

1. DD Form 149.
2. Applicant's Issues.

02/09/23/cr

FD 2002-0256



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

8 JUN 2000

MEMORANDUM FOR 55 WG/CC

FROM: 55 WG/JA

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

1. **INITIATION OF ACTION:** On 2 June 2000, 55 SUPS/CC notified [REDACTED] that he was recommending his discharge for Misconduct--Drug Abuse pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.54. The commander further recommended [REDACTED] receive a general discharge without probation and rehabilitation (P&R).
2. **RESPONDENT:** The respondent is a twenty-one year old Receiving Apprentice. He has completed one year and two months of his four year enlistment (TAFMSD: 10 March 1999) and was assigned to his unit on 26 August 1999. This is his first enlistment.
3. **REASON FOR DISCHARGE:** The respondent did, at or near Offutt Air Force Base, Nebraska, between on or about 18 November 1999 and on or about 31 December 1999, wrongfully distribute percocet, a schedule II controlled substance. For this incident he was convicted in a Summary Court Martial on 11 May 2000, with punishment consisting of reduction to the grade of Airman and confinement for nine days.
4. **RESPONDENT'S SUBMISSION:** By letter dated 2 June 2000, the respondent waived his right to consult with counsel, and waived his right to submit a statement.
5. **ERRORS AND IRREGULARITIES:** None.
6. **DISCUSSION:**
 - a. **Basis for Discharge:** Under AFI 36-3208, paragraph 5.54., airmen who abuse drugs one or more times are subject to discharge for misconduct. The presence in the military environment of persons who engage in drug abuse seriously impairs accomplishing the military mission. Members who abuse drugs adversely affect the ability of the Air Force to: maintain discipline, good order, and morale; foster mutual trust and confidence among members; facilitate assignments and worldwide deployment; recruit and retain members; maintain public acceptability of military service; and prevent breaches of security. In this case, the respondent's wrongful distribution of percocet provides a sufficient basis for discharge.
 - b. **Appropriateness of Discharge:** The respondent's misconduct does not support continued military service. Drug abuse is clearly incompatible with military service. Under

FD 2002-0256

AFI 36-3208, paragraph 5.55.2.1., a member found to have abused drugs must be discharged unless the member shows that he meets all seven of the following criteria: drug abuse is a departure from the member's usual and customary behavior; drug abuse occurred as the result of drug experimentation; drug abuse does not involve recurring incidents other than drug experimentation; the member does not desire to engage in or intend to engage in drug abuse in the future; 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 drug abuse did not involve drug distribution. In this case, the respondent has not submitted any evidence showing that he meets the seven retention criteria. Accordingly, discharge is appropriate.

c. **Characterization of Service:** Table 1.3 to AFI 36-3208 provides that discharges for Misconduct--Drug Abuse be characterized as honorable, general, or under other than honorable conditions. A general discharge is appropriate when significant negative aspects of an airman's conduct outweigh positive aspects of the airman's military record. The respondent's drug use clearly outweighs any positive aspects of his military career. A general discharge is appropriate in this case.

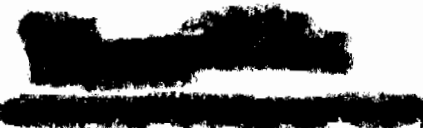
d. **Probation & Rehabilitation:** The respondent is not eligible for P&R under AFI 36-3208, Chapter 7, paragraph 7.2.6.

e. **Legal Sufficiency:** This action is legally sufficient.

7. **OPTIONS:** As the special court-martial convening authority, you may:

- a. Retain the respondent;
- b. Approve discharge with a general discharge without P&R;
- c. Return the file to the unit with a recommendation that the respondent be processed for discharge with an under other than honorable conditions discharge; or
- d. Forward the file to the general court-martial convening authority with a recommendation for an honorable discharge.

8. **RECOMMENDATION:** I recommend the respondent be discharged with a general discharge without P&R, and, due to the nature of his discharge, he be barred from Offutt Air Force Base for a period of one year from the date of his discharge.

 USAF
Staff Judge Advocate

FD 2002-0256



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

2 Jun 08

MEMORANDUM FOR [REDACTED]

FROM: 55 SUPS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Misconduct--Drug Abuse. The authority for my recommendation is AFPD 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.

2. My reasons for this action are:

a. You did, at or near Offutt Air Force Base, Nebraska, between on or about 18 November 1999 and on or about 31 December 1999, wrongfully distribute percocet, a schedule II controlled substance. For this incident, you were convicted in a Summary Court Martial on 11 May 2000, with punishment consisting of reduction to the grade of Airman and confinement for nine days. (Atch 1-1)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial 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 Air Force and probably any other branch of the military.

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 [REDACTED] Bldg 323C, RM 302, Phone 4-3939, at _____ on _____. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by _____ 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 to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 55th Medical Group, Physical Exams, Room 115, Building 527 (Fairchild Hall) at _____ on _____

FD 2002-0256


_____ for the examination. Please pick up your medical records 24 hours prior to your appointment.

8. You have been scheduled for an initial separation appointment. You must report to the 55th Mission Support Squadron, Separations and Retirements Section, Room 235, Bldg 323C, at _____ on _____ with your escort.

9. You have been scheduled for a pre-separation briefing. You must report to the Family Support Center at _____ on _____ for the briefing.

10. 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 unit orderly room.

11. Execute the acknowledgment provided and return it to me immediately.

 USAF
Commander, 55th Supply Squadron

Attachments:

Atch 1-1; Article 64(a) Review dated 23 May 2000