

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">YES</td> <td style="width: 50%;">NO</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>	YES	NO		X		
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 A95.00	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	

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 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]
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INDORSEMENT	DATE: 7 JAN 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

FD02-0312

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

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 is denied.

The board finds that the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received two Article 15's for a curfew violation and for wrongfully using marijuana. He also received eleven discrepancy reports for disobeying a lawful order, refusing to follow instructions, not wearing the proper uniform combination, failing to carry mandatory items, violation of shaving standards, violating curfew, failing to properly clean dorm room, missing mandatory formations, laughing in formation, and, four Letters of Counseling and one Letter of Admonishment for failure to complete written assignments, dereliction of duty, and missing mandatory formations. Although the Commanders notification letter to the individual lists all the above actions as the Reason for discharge, the only Reason listed on the discharge documents is for Drug Abuse. The drug abuse alone is sufficient basis for discharge. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the drug abuse was a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of 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.

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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/02/05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 78/11/09. Enlmt Age: 20 9/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-20, E-59, G-42, M-30. PAFSC: 2M033A - Space and Missile Facilities Apprentice. DAS: 00/02/25.

b. Prior Sv: (1) AFRes 99/08/13 - 99/11/02 (2 months 20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 99/11/03 for 6 yrs. Svd: 01 Yrs 03 Mo 03 Das, all AMS.

b. Grade Status: AB - 00/09/27 (Article 15, 00/09/27)
AMN - 00/06/29 (Article 15, 00/06/29)
A1C - 00/05/05
AMN - 00/05/03

c. Time Lost: None.

d. Art 15's: (1) 00/09/27, Vandenberg AFB, CA - Article 92. You did, on or about 26 Aug 00, fail to obey a lawful general regulation, to wit: Air Force Education and Training Command Instruction 36-2216, paragraph 4.3.4, dated 30 Mar 98, by failing to be present in your dorm room after the prescribed time of 2300 hours. Reduction to AB, forfeiture of \$250.00 pay per month for 2 months (Suspended). (No appeal) (No mitigation)

(2) 00/06/29, Vandenberg AFB, CA - Article 112a. You did, at or near San Luis Obispo, California, between on or about 1 Apr 00, wrongfully use marijuana. Reduction to Amn, restriction for 30 days, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC, 15 JUN 00 - Smoking in uniform.
DR, 20 JUN 00 - Disobeyed lawful order.
DR, 14 JUN 00 - Refusing to follow instructions.
RIC, 07 JUN 00 - For receiving four DRs since 25 May 00.
DR, 06 JUN 00 - Not wearing proper uniform combination.
DR, 06 JUN 00 - Failing to carry mandatory items.
DR, 01 JUN 00 - Violation of shaving standards.
DR, 25 MAY 00 - Violating curfew.

DR, 23 MAY 00 - Failing to properly clear dorm room.
RIC, 23 MAY 00 - Missing 2 mandatory formations.
DR, 22 MAY 00 - Missing mandatory formation.
DR, 18 MAY 00 - Failure to carry mandatory items.
DR, 10 MAY 00 - Laughing in formation.
DR, 11 APR 00 - Missing formations.
LOA, 05 APR 00 - Dereliction of duty.
LOC, 23 MAR 00 - Failure to complete a written assignment
as directed.

f. CM: None.

g. Record of SV: None.

(Discharged from Vandenberg AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (05) Mos (23) Das
TAMS: (01) Yrs (03) Mos (03) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/12.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. DD Form 149.

02/11/05/ia



DEPARTMENT OF THE AIR FORCE
30TH SPACE WING (AFSPC)

FD2002-0312

MEMORANDUM FOR 30 SW/CC [REDACTED]

FROM 30 SW/JA

SUBJECT: Legal Review – AFI 36-3208 Administrative Discharge Action
[REDACTED] 532 TRS (AETC)

1. The proposed administrative discharge action against [REDACTED] has been reviewed and found to be legally sufficient.
2. BASIS FOR ACTION: AFD 36-32 and AFI 36-3208, paragraph 5.54: Drug Abuse. [REDACTED] was notified of this action by his Commander on 24 Jan 01. The commander recommends that [REDACTED] current term of service be characterized as General, Under Honorable Conditions in accordance with AFI 36-3208, paragraph 1.18. Counsel was made available to [REDACTED] however, he declined to consult counsel and elected to waive his right to submit statements on his own behalf. This waiver can be found under Tab 3, Attachment 3.
3. FACTS: [REDACTED] entered the Air Force on 3 Nov 99. He was assigned to 532 TRS on 25 Feb 00 as a student. Between on or about 1 Apr 00 and 2 Apr 00, [REDACTED] wrongfully used marijuana, a violation of Article 112a, UCMJ. As a result, he received nonjudicial punishment under Article 15, UCMJ, dated 29 Jun 00. Punishment consisted of reduction to the grade of Airman, with a new date of rank of 29 Jun 00, restriction to Vandenberg Air Force Base, California, for 30 days, and a reprimand. In addition to his confessed use of marijuana, [REDACTED] has been a consistently poor performer. His additional disciplinary problems have resulted in eleven documented discrepancy reports, three Records of Individual Counseling, one Letter of Admonishment, and one Letter of Counseling.
4. DISCUSSION:
 - a. This discharge action has been processed in strict accordance with AFI 36-3208. The evidence is legally sufficient to support discharge based on Drug Abuse. The drug abuse occurred in [REDACTED] current term of enlistment and may be used by you as a basis for discharge.
 - b. In accordance with AFI 36-3208, paragraph 6.1.1, the decision to discharge should be made after careful consideration of all the facts and circumstances surrounding the basis for the member's discharge. The separation of members failing to meet standards of conduct or discipline promotes Air Force readiness and strengthens military standards. Pursuant to AFI 36-3208, paragraph 5.54, airmen who abuse drugs on one or more occasions are subject to discharge for misconduct. Drug abuse, for purposes of this regulation, is the illegal, wrongful, or improper use, possession, sale or transfer of any controlled substance. While drug abuse alone is a

sufficient basis for discharge, [REDACTED] subsequently received nonjudicial punishment under Article 15, UCMJ, for failing to obey a lawful general regulation, a violation of Article 92, UCMJ. Discharge action must be initiated when the basis is drug abuse. Airmen subject to discharge for drug abuse may, however, warrant consideration for waiver of discharge if recommended by the commander. In the present case, no such recommendation has been made.

c. Between on or about 1 Apr 00 and 2 Apr 00, [REDACTED] wrongfully used marijuana, a violation of Article 112a, UCMJ. As a result, he received nonjudicial punishment under Article 15, UCMJ, dated 29 Jun 00. Punishment consisted of reduction to the grade of Airman, with a new date of rank of 29 Jun 00, restriction to Vandenberg Air Force Base, California, for 30 days, and a reprimand. Drug use is simply incompatible with service in the military and the continued presence in the military of those who abuse drugs seriously impairs the ability of the Air Force to maintain discipline, good order and morale; foster mutual trust and confidence among members; prevent security breaches and maintain public acceptability of military service. Drug abuse alone is clearly sufficient to support discharge in this case. His blatant disregard for good order and discipline renders him incapable of continued military service. Discharge is unquestionably warranted in this case.

d. According to AFI 36-3208, paragraph 1.17, characterization of [REDACTED] service should be based on the quality of his service as reflected in the military record of his period of service. This includes personal conduct, performance of duty, and the reason for separation. Taking [REDACTED] drug abuse and general record of performance together (as summarized in paragraph 3), it is obvious that the negative aspects of his performance of duty have outweighed any positive contributions he may have made. It is critical in discharge actions to preserve the integrity of the Honorable service characterization. Airmen who choose to engage in drug abuse should not have the privilege of being associated with past airmen who have made the effort to meet Air Force standards of acceptable conduct and performance of duty. For these reasons, [REDACTED] service should be characterized as General, Under Honorable Conditions.

e. Pursuant to AFI 36-3208, paragraph 5.55.2.3, a member approved for discharge for drug abuse is not eligible for probation and rehabilitation in accordance with Chapter 7.

5. OPTIONS: As the Special Court-Martial Convening Authority, you may:

a. Direct retention based on your determination that the evidence is insufficient to support discharge;

b. Return the discharge file with direction that the action be brought under a more appropriate paragraph of AFI 36-3208;

c. Direct discharge with a General, Under Honorable Conditions characterization of service;

d. Direct that the discharge be re-initiated under the board hearing procedure for a discharge, with a service characterization recommendation of Under Other Than Honorable Conditions.

6. RECOMMENDATION: That you direct discharge of [REDACTED] with a General, Under Honorable Conditions characterization of service, without an offer of probation and rehabilitation, by signing the proposed letter at Tab 1.

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

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

24 Jan 01

MEMORANDUM FOR [REDACTED]

FROM: 532 TRS/CC

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

1. I am recommending your discharge from the United States Air Force for Drug Abuse. The authority for this action is AFDPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service may be characterized as General, Under Honorable Conditions (General). I am recommending that your discharge be characterized as General.

2. My reasons for this action are:

a. On or about 22 Mar 00, you failed to complete a written assignment as directed by your instructor. As a result, you received a Letter of Counseling, dated 23 Mar 00.

b. On or about 28 Mar 00, you were derelict in your duties as outlined by your instructor. Specifically, you failed to prepare for a mandatory written exam. As a result, you received a Letter of Admonishment, dated 5 Apr 00.

c. On or about 11 Apr 00, you missed a mandatory formation. As a result, you received a Discrepancy Report, AETC Form 341, dated 11 Apr 00.

d. On or about 10 May 00, you laughed in formation. As a result, you received a Discrepancy Report dated 10 May 00.

e. On or about 18 May 00, you failed to carry mandatory items (AETC Form 341's). As a result, you received a Discrepancy Report dated 18 May 00.

f. On or about 22 May 00, you missed a mandatory formation. As a result, you received a Discrepancy Report dated 22 May 00.

g. On or about 11 Apr 00 and 22 May 00, you missed mandatory formations. As a result, you received a Record of Individual Counseling (RIC), AF Form 174, dated 23 May 00.

h. On or about 23 May 00, you failed to properly clean your dormitory room. As a result, you received a Discrepancy Report dated 23 May 00.

i. On or about 25 May 00, you violated curfew. As a result, you received a Discrepancy Report dated 25 May 00.

j. On or about 1 Jun 00, you violated AFI 36-2903 by failing to comply with male shaving standards. As a result, you received a Discrepancy Report dated 1 Jun 00.

k. On or about 6 Jun 00, you failed to carry mandatory items. As result, you received a Discrepancy Report dated 6 Jun 00.

l. On or about 6 Jun 00, you were not wearing the proper uniform combination. As a result, you received a Discrepancy Report dated 6 Jun 00.

m. On or about 7 Jun 00, you received a RIC for having received four Discrepancy Reports since 25 May 00.

n. On or about 14 Jun 00, you refused to follow instructions during physical conditioning. As a result, you received a Discrepancy Report dated 14 Jun 00.

o. On or about 20 Jun 00, you disobeyed and officer's orders. As a result, you received a Discrepancy Report dated 20 Jun 00.

p. On or about 13 Jun 00, you were observed smoking in uniform while doing a detail. As a result, you received a RIC dated 15 Jun 00.

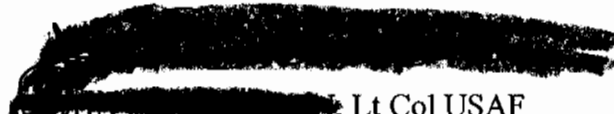
q. Between on or about 1 Apr 00 and 2 Apr 00, you wrongfully used marijuana, a violation of Article 112a, UCMJ. As a result, you received nonjudicial punishment under Article 15, UCMJ, dated 29 Jun 00. Punishment consisted of reduction to the grade of Airman, with a new date of rank of 29 Jun 00, restriction to Vandenberg Air Force Base, California, for 30 days, and a reprimand.

r. On or about 26 Aug 00, you failed to obey a lawful regulation, a violation of Article 92, UCMJ. As a result, you received nonjudicial punishment under Article 15, UCMJ, dated 27 Sep 00. Punishment consisted of reduction to the grade of Airman Basic, with a new date of rank of 27 Sep 00, and forfeiture of \$250.00 pay per month for 2 months, suspended until 26 Mar 01.

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 discharge action is approved, how your discharge will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Furthermore, any special pay, bonuses, or education assistance you have received 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 [REDACTED] at the Area Defense Counsel, Building 8500, ext. 6-3627/28, at TBD hours on _____. 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 29 JAN 01 (3 duty days) unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. Your failure to consult counsel or to submit matters in your own behalf will constitute a waiver of your right to do so.
7. You have been scheduled for a medical examination. You must report to TBD at _____ hours on _____.
8. Any personal information you furnish in rebuttal to this action is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the office of the Area Defense Counsel, Building 8500.
9. Execute the attached acknowledgment and return it to me immediately.


_____, Lt Col USAF
Commander

Attachments:

1. Letter of Counseling, dtd 23 Mar 00
2. Letter of Admonishment, dtd 5 Apr 00
3. Discrepancy Report, dtd 11 Apr 00
4. Discrepancy Report, dtd 10 May 00
5. Discrepancy Report, dtd 18 May 00
6. Discrepancy Report, dtd 22 May 00
7. Record of Individual Counseling (RIC), dtd 23 May 00
8. Discrepancy Report, dtd 23 May 00
9. Discrepancy Report, dtd 25 May 00
10. Discrepancy Report, dtd 1 Jun 00
11. Discrepancy Report, dtd 6 Jun 00
12. Discrepancy Report, dtd 6 Jun 00
13. RIC, dtd 7 Jun 00
14. Discrepancy Report, dtd 14 Jun 00
15. Discrepancy Report, dtd 20 Jun 00
16. RIC, dtd 15 Jun 00
17. Record of Nonjudicial Punishment Proceedings, AF Form 3070, dtd 29 Jun 00, w/atchs
18. Record of Nonjudicial Punishment Proceedings, AF Form 3070, dtd 27 Sep 00, w/atchs