

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

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

TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
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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		
A94.05	A67.70	1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE	
17 Jan 03	FD2002-0315		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	SIGNATURE OF BOARD PRESIDENT
[REDACTED]	[REDACTED]

INDORSEMENT	DATE: 17 Jan 03
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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 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD02-0315

**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 neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

**ISSUE:** The applicant believes his discharge is inequitable because it was too harsh. He states that he only had one negative action over his enlistment period. He was also told that after 6 months, the upgrade was automatic. The records indicated the applicant received an Article 15 for wrongfully using and possessing marijuana. The Board concluded the drug abuse was a significant departure from the conduct expected of all military members. The applicant stated he was told his discharge would automatically be upgraded in six months. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

**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

[REDACTED]  
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/12/17 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 82/09/28. Enlmt Age: 17 0/12. Disch Age: 19 2/12. Educ: HS DIPL. AFQT: N/A. A-90, E-82, G-92, M-61. PAFSC: 3E032 - Electrical Power Production Apprentices. DAS: 01/02/16.

b. Prior Sv: (1) AFRes 99/10/22 - 00/09/04 (10 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/09/05 for 6 yrs. Svd: 01 Yrs 03 Mo 13 Das, all AMS.

b. Grade Status: AMN - 01/08/07 (Article 15, 01/08/07)  
A1C - 00/10/20

c. Time Lost: None.

d. Art 15's: (1) 01/08/07, Ramstein AB, Germany - Article 112a. You, did, within the continent of Europe, between on or about 15 May 01, wrongfully use marijuana. You did, within the continent of Europe, between on or about 1 Apr 01 and on or about 15 May 01, wrongfully possess some amount of marijuana. Reduction to Amn, forfeiture of \$272.00 pay, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: None.

(Discharged from Seymour Johnson AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (02) Yrs (01) Mos (26) Das  
TAMS: (01) Yrs (03) Mos (13) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/09/28.  
(Change Discharge to Honorable)

Issue 1: I had only one negative action over my enlistment period. I was told that after 6 months, the upgrade was automatic. I changed address (sic), in case you can't read, here it is again:



ATCH  
None.

02/11/06/ia



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

20Nov01

MEMORANDUM FOR 86 AW/CC

FROM: 86 AW/JA

SUBJECT: Legal Review of Discharge - [REDACTED] 786 CES

1. I have reviewed the administrative discharge action against [REDACTED] initiated on 19 November 2001 by [REDACTED] 786 CES/CCQ, 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] 786 CES/CC, recommends a discharge characterization of General (Under Honorable Conditions). [REDACTED] discharge is based upon his possession and use of marijuana, a Schedule I controlled substance. For this behavior he received nonjudicial punishment dated 7 August 2001.
3. MATTERS SUBMITTED BY THE RESPONDENT: [REDACTED] consulted counsel and submitted statements for consideration. [REDACTED] asks to be given an honorable discharge characterization.
4. DISCUSSION: [REDACTED] actions fit the definition of drug abuse in paragraph 5.54:
  - a. I note no errors or irregularities that affect [REDACTED] legal rights.
  - b. [REDACTED] discharge package was delayed due to pending courts-martial in which he testified.
  - c. 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.

d. The member has the burden of proving retention is warranted under the above seven circumstances. In his response, [REDACTED] does not make an assertion that he meets the seven criteria.

e. [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, he must be found medically qualified for worldwide duty in accordance with AFI 36-3208, paragraph 6.3. [REDACTED] medical appointment is set for 21 November 2001 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 1 year and 2 months of military service. His current enlistment began on 5 September 2000 for a term of 6 years. [REDACTED] has not been in the Air Force long enough to warrant an EPR.

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, Chapter 7, 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 that 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 UOTHIC;
- d. Find that 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 he 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 he be separated from the USAF with a general discharge by signing Attachment 1.



Attachments:

- 1. Proposed Memo for 86 AW/CC
- 2. Discharge Package
- 3. Respondent's Documentation
  - a. Airman's Statement, 19 Nov
  - b. Character Statement submitted by [REDACTED]
  - c. Airman's Receipt, 19 Nov 01

FD 2002-0315



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

19 Nov 01

MEMORANDUM FOR [REDACTED] CES

FROM: 786 CES/CCQ

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse. The authority for this action 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 (Under Honorable Conditions).
2. My reason for this action is that you wrongfully possessed and used marijuana, a Schedule I controlled substance. For this incident, you received nonjudicial punishment dated 7 August 2001 (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 20 Nov 01 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 26 Nov 01 at 1600 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 21 Nov 01 at 0830-0910 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.



**Attachments:**

**1. Supporting Documents:**

- a. Nonjudicial punishment, 7 Aug 01
  - b. OSI Report of Investigation, 11 Jul 01
- 2. Other Documents: Denial of Air Force Good Conduct Medal, undated**
- 3. Airman's Receipt of Notification Memorandum**