

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE A1C	AFSN/SSAN [REDACTED]
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TYPE GEN	<input checked="" type="checkbox"/> PERSONAL APPEARANCE	RECORD REVIEW
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION [REDACTED]	ADDRESS AND OR ORGANIZATION OF COUNSEL DISABLED AMERICAN VETERANS
YES X	NO	

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A93.01, A93.09, A92.21	INDEX NUMBER A66.00	EXHIBITS SUBMITTED TO THE BOARD	
		1	ORDER APPOINTING THE BOARD
		2	APPLICATION FOR REVIEW OF DISCHARGE
		3	LETTER OF NOTIFICATION
HEARING DATE 03-04-10	CASE NUMBER FD2002-0360	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 RATIONAL 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, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER [Signature]

SIGNATURE OF BOARD PRESIDENT

INDORSEMENT

DATE: 03-04-14

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

FD2002-0360

GENERAL: The applicant appeals for upgrade of discharge to Honorable and to change the reason and authority for discharge.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel at Andrews AFB, MD on April 10, 2003.

The following additional exhibits were submitted at the hearing:

Exhibit 6: Character Letter from Spouse dated April 9, 2003

Exhibit 7: Eight Character Letters from Co-Workers and Supervisors

Exhibit 8: Notarized PlanetGov Corporation Top Secret Clearance Certification dated April 7, 2003

Exhibit 9: Negative Drug Screen Results dated April 7, 2003

Exhibit 10: Cisco Certified Network Professional Certificate

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge. The applicant's issues are also listed in the attached brief.

FINDINGS: Upgrade of discharge and change of reason for the discharge are denied.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant infers discharge was inequitable because it was too harsh based on isolated experimental behavior that was out of character for him. Applicant further highlighted that he was suffering from dysthymia, which could have negatively impacted his judgment, although he conceded he still knew right from wrong. He also notes his performance was otherwise excellent and he continued to be a hard worker even after his misconduct came to light. The records indicated the applicant received an Article 15 for drug abuse. Specifically he used marijuana twice over a short period, as attested to in a signed sworn witness statement provided to the Air Force Office of Special Investigations, and when member also subsequently admitted under oath and in a signed sworn statement that he had used it twice. At the time of his discharge, member consulted counsel and submitted statements in his own behalf requesting an honorable separation. Applicant does not deny his illegal drug use and possession, but attributes his misconduct to youth, immaturity, and a lapse in judgment, possibly resulting from his depression. He admitted to using the drugs on base in his dormitory, and to purchasing illegal drugs to provide to another military member. The Board concluded the misconduct was a significant departure from conduct expected of all military members, and the seriousness of drug abuse outweighs his otherwise satisfactory service. Furthermore, member knew illegal drug use was incompatible with Air Force standards, but chose to ignore those standards. The Board found the characterization of the discharge received by the applicant was appropriate.

Applicant also noted that his post-service character has improved, and he feels that now warrants an honorable characterization of service, and that he shouldn't have to continue to pay for his past mistakes forever. He noted he has been gainfully employed and pursuing more education, as well as having gotten married. Nevertheless, applicant's successes since his separation are not relevant to the period of service under review, are insufficient grounds to overcome the factors leading to his discharge, and do not provide a basis for an upgrade.

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 the 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 A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 11 Sep 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge and Change the Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 05 Jun 79. Enlmt Age: 18 8/12. Disch Age: 22 3/12. Educ: HS DIPL. AFQT: N/A. A-83, E-90, G-94, M-78. PAFSC: 2E251 - Electronic Computer & Switching Systems Journeyman. DAS: 17 Dec 00.

b. Prior Sv: (1) AFRes 09 Feb 98 - 19 May 98 (3 months 11 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 May 98 for 4 yrs. Svd: 03 Yrs 03 Mo 23 Das, all AMS.

b. Grade Status: A1C - 17 Aug 01 (Article 15, 17 Aug 01)
 SRA - 20 Nov 00
 A1C - 20 Sep 99
 AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 17 Aug 01, Shaw AFB, SC - Article 112a. You did, at or near Amsterdam, Holland, between on or about 11 Jan 99 and on or about 17 Dec 00, wrongfully use marijuana. You, did, at or near Suffolk County, United Kingdom, between on or about 11 Jan 99 and on or about 17 Dec 00, wrongfully use marijuana. Reduction to A1C, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 20 May 98 - 19 Jan 00 RAF Lakenheath 5 (Initial)
 20 Jan 00 - 21 Nov 00 RAF Lakenheath 5 (CRO)

(Discharged from Shaw AFB)

h. Awards & Decs: AFAM W/1 DEV, AFTR, AFOUA, AFGCM.

i. Stmt of Sv: TMS: (03) Yrs (07) Mos (03) Das
 TAMS: (03) Yrs (03) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02 Aug 01.
(Upgrade Discharge to Honorable and Change Reason for Discharge)

NO ISSUES SUBMITTED.

ATCH

1. Thank you letter to SAF/MRBR.

27Nov02/ia

FD 2002-0360



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

04 SEP 2001

MEMORANDUM FOR 20 FW/CC

FROM: 20 FW/JA

SUBJECT: Legal Review of AFI 36-3208 Action [REDACTED] FR [REDACTED]

1. Basis for Action: The Commander, 20th Communications Squadron, has recommended that A1C [REDACTED] be separated from the service with a general discharge for drug abuse, under the provisions of AFI 36-3208, section H, paragraph 5.54. The Respondent is being processed according to the notification procedure.
2. Facts: My reason for this action is that between on or about 11 Jan 99 and on or about 17 Dec 00, the Respondent wrongfully used marijuana at or near Amsterdam, Holland and at or near Suffolk County, United Kingdom. Punishment consisted of a reduction to the grade of Airman First Class and 30 days extra duty.
3. Respondent's Submission: After consulting with counsel, the Respondent elected to submit matters for your consideration. In a two-page statement the Respondent requests an honorable discharge. The Respondent's submissions are attached at Tab 7.
4. Errors and Irregularities: This file contains no errors or irregularities.
5. Conclusions:
 - a. Subject to inclusion of the report of physical examination, this file is legally sufficient to support a discharge, pursuant to AFI 36-3208, paragraph 5.54. The Respondent wrongfully used marijuana. The Respondent's misconduct is clearly disruptive to the maintenance of good order and discipline on this installation. Thus, the Air Force would be best served by his immediate discharge.
 - b. A member found to have abused drugs will be discharged unless the member meets seven retention criteria set forth in AFI 36-3208, paragraph 5.55.2. In this case, the Respondent is unable to demonstrate these retention criteria and has made no effort to do so. Specifically, the Respondent has used marijuana on more than one occasion, which is strong evidence this was not just experimentation. Accordingly, he should be discharged.
 - c. The Respondent could receive an honorable, general, or an under other than honorable conditions (UOTHC) discharge. The commander has recommended the Respondent receive a general discharge. I concur with this recommendation. According to the criteria set forth in AFI 36-3208, a general discharge is appropriate when the significant negative aspects of a member's service outweigh the positive. In this case, the Respondent's wrongful use of marijuana constitutes a significant negative aspect that outweighs the positive aspects of his career. As a result, a general service characterization is appropriate.
 - d. Because the Respondent is being discharged for drug abuse, he is ineligible for Probation and Rehabilitation (P&R) under AFI 36-3208, para. 7.2.6.

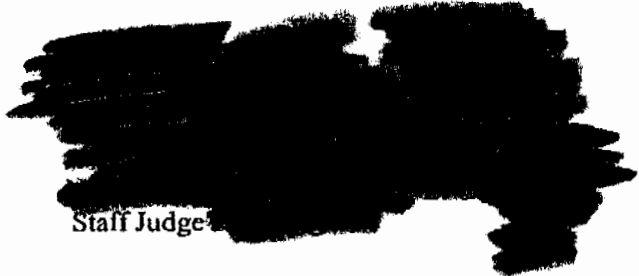
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FD 2002-0360

6. Options: As the Special Court-Martial Convening Authority in this case, you may:

- a. Retain the Respondent in the Air Force;
- b. Direct the Respondent be discharged with a general discharge, with or without P&R;
- c. Recommend the Respondent be discharged with an honorable discharge, with or without P&R, and forward this case to the General Court-Martial Convening Authority (9 AF/CC) for his action; or
- d. Direct this case be reinitiated pursuant to the board hearing procedures of AFI 36-3208, chapter 6, section C, if you feel a discharge under other than honorable conditions is warranted.

7. Recommendation: I recommend you discharge the Respondent with a general discharge, without P&R.



Staff Judge

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

FD2002-0360

MEMORANDUM FOR AIG [REDACTED]

27 AUG 2001

FROM: 20 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for drug abuse, under the provisions of AFPD 36-32 *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen* chapter 5, section H, paragraph 5.54. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.
2. My reason for this action is that between on or about 11 Jan 99 and on or about 17 Dec 00, you wrongfully used marijuana at or near Amsterdam, Holland and at or near Suffolk County, United Kingdom. Punishment consisted of a reduction to the grade of Airman First Class and 30 days extra duty.
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 will probably not be allowed to enlist in any other branch of the armed services.
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] Area Defense Counsel, 895-9530, on 20 Aug 01, at 0900 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 within three days after receipt of the notification memorandum, 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 in your own behalf, your failure will constitute a waiver of your right to do so.
7. You must report, in uniform, to the Shaw AFB Hospital, Physical Examinations Section, between the hours of 1100 – 1300, Mon – Thur, for a medical examination.
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.
9. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge if the reason is not homosexual conduct. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

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10. Execute the attached acknowledgment and return it to me immediately.



2 Attachments:

1. AF Form 3070, 12 Apr 01, w/Atchs
2. Respondent's Receipt of Notification (Tab 5)