

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
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 A94.01	INDEX NUMBER A67.70	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
HEARING DATE 19 FEB 03	CASE NUMBER FD2002-0420	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, 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: 19 FEB 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

FD02-0420

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 her discharge is inequitable because it was too severe a punishment. The applicant admits to using cocaine and methamphetamines. She states that at the time of her sentencing, it was a year and a half after the use of these drugs and the whole situation was brought to the surface because a fellow service member told on her. The records indicated the applicant received a General Discharge for Misconduct – Drug Abuse after being found guilty by a Special Court Martial for wrongfully using cocaine and methamphetamines. The DRB took note of the applicant's duty performance as documented by her performance reports, letters of recommendation and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. 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. The Board concluded the misconduct of the applicant appropriately characterized her 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

(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 15 Nov 00 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse) . Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 19 Jul 78. Enlmt Age: 18 1/12. Disch Age: 22 3/12. Educ: HS DIPL. AFQT: N/A. A-94, E-70, G-76, M-45. PAFSC: 1N151 - Imagery Analysis Journeyman. DAS: 20 Aug 97.

b. Prior Sv: (1) AFRes 30 Aug 96 - 10 Dec 96 (3 Mos 11 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 11 Dec 96 for 4 yrs. Svd: 3 Yrs 11 Mos 5 Das, of which AMS is 3 Yrs 9 Mos 27 Das (Ex: 1 Mo 8 Das lost time)

b. Grade Status: AB - 18 Jan 00 (SPCM Order No. 5, 27 Jun 00)
SRA - 11 Dec 99
A1C - 11 Apr 98
AMN - Unknown

c. Time Lost: 5 Jun 00 - 12 Jul 00 (38 Days)

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial Order No. 5, 27 June 2002.

CHARGE: Article 112a. Plea Guilty. Finding Guilty.

Specification 1: Did, at or near Cambridgeshire, United Kingdom, on divers occasions, between on or about 1 Jan 99 and on or about 31 May 99, wrongfully use cocaine.

Specification 2: Did, at or near Cambridgeshire, United Kingdom, on divers occasions, between on or about 1 Jan 99 and on or about 31 May 99, wrongfully use methamphetamine.

Specification 3: Did, at or near Royal Air Force Molesworth, Cambridgeshire, United Kingdom, between on or about 1 Jan 99 and on or about 31 May 99, wrongfully distribute some amount of amphetamine. Dismissed my Military Judge pursuant to pretrial agreement. Sentence approved for 45 days confinement, forfeiture of \$670.00 pay per month for six months, and reduction to the

grade of AB.

g. Record of SV: 11 Dec 96 - 10 Aug 98 RAF Molesworth ABS 5 (Initial)
11 Aug 98 - 26 Mar 99 RAF Molesworth ABS 5 (CRO)
27 Mar 99 - 14 Nov 99 RAF Molesworth ABS 5 (CRO)

(Discharged from Lackland AFB)

h. Awards & Decs: JSAM, AFTR, AFOLTR, JMUA W/1BOLC, AFGCM.

i. Stmt of Sv: TMS: (4) Yrs (1) Mo (9) Das
TAMS: (3) Yrs (9) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 23 Sep 02.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF

ATCH

1. Applicant's Issues.
2. Discharge Documents.
3. Citation Joint Service Achievement Medal.
4. Enlisted Performance Reports.
5. Character References.

7Jan03/cr



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 100TH AIR REFUELING WING (USAFE)**

MEMORANDUM FOR 100 ARW/CC

FROM: 423 ABS/JA

SUBJECT: Legal Review-Discharge Under AFI 36-3208, Chapter 5, Section H, Paragraph 5.54 [REDACTED]

1. **HISTORY:** On 12 October 2000, [REDACTED], Joint Analysis Center, Air Force Element Commander, initiated discharge action on the Respondent, [REDACTED] for Drug Abuse, IAW AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. The Respondent acknowledged receipt of the Notification Memorandum on 12 October 2000. [REDACTED] has recommended a General discharge.

2. **BASIS FOR ACTION:** On 5 June 2000, [REDACTED] was convicted by a special court-martial, pursuant to her guilty pleas, of using cocaine and methamphetamine. For this, she was sentenced to 45 days confinement, forfeiture of \$670.00 for six months and reduction to the grade of E-1. The Convening Authority (Commander, USEUCOM Joint Analysis Center, RAF Molesworth) took action to approve the special court-martial's findings and sentence on 27 June 2000.

3. **EVIDENCE FOR THE RESPONDENT:** The Respondent is 22 years old. She enlisted in the Air Force on 11 December 2000, for 4 years. She was assigned to her current unit on 19 August 1997. Her records indicate she is entitled to wear the Joint Service Achievement Medal, Joint Meritorious Unit Award (one oak leaf cluster), Air Force Good Conduct Medal, Air Force Overseas Long Tour Ribbon, and the Air Force Basic Training Ribbon. The Respondent has three Enlisted Performance Reports on file with overall ratings of 5. In her 16 Oct 00 response to the discharge notification memorandum, the Respondent requests that she be allowed to finish out her term of enlistment, which expires in December 2000, so as to separate with an honorable discharge.

4. **ERRORS AND IRREGULARITIES:** The fact that [REDACTED] is nearing the end of her term of service is neither a legally permissible nor a persuasive reason to allow her to finish out her term of service as she has requested. IAW AFI 36-3208, paragraph 5.55, *et seq.*, the administrative separation action must be initiated promptly when the facts furnish a basis for discharge. However, there is no time limit for initiation of the administrative separation process, and, furthermore, failure to initiate separation action immediately does not constitute a waiver of the proceedings. The Convening Authority took action on [REDACTED] court-martial results on 27 Jun 00. But for the fact that [REDACTED] was placed on administrative hold as a material witness in an unrelated criminal investigation, her Air Force Element Commander would have initiated the separation action at that time. As it happened, [REDACTED] was released from administrative hold as

a material witness on about 5 Oct 00, following the final disposition of the unrelated criminal investigation.

5. CONCLUSIONS:

a. **Propriety of Action:** Discharge is warranted and appropriate for a service member under Paragraph 5.54, Drug Abuse, when an airman abuses drugs. [REDACTED] conviction for repeated use of cocaine and methamphetamine establishes a clear basis for discharge. Retention is only warranted if the member meets all seven of the retention criteria listed in AFI 36-3208 paragraph 5.55.2.1:

1. Drug abuse is departure from member's customary behavior;
2. Drug abuse occurred as a result of drug experimentation (for reasons of peer pressure, curiosity, etc.);
3. Drug abuse did not involve recurring incidents;
4. Member genuinely does not desire to use drugs again;
5. Under all the circumstances, drug use is not likely to recur;
6. Retention is in the best interests of the Air Force;
7. Drug use did not involve drug distribution.

A synopsis of the evidence in this case reveals that [REDACTED] repeatedly used cocaine and methamphetamine with other military members of her joint-force command including an Army and a Navy member, over a span of about four months for no other reason than self-gratification, knowing that the conduct was criminal. Thus, retention is clearly not warranted under these circumstances.

b. Characterization of Service:

1. Characterization should be based on the quality of the member's service during the current enlistment. Paragraph 1.18.1 of AFI 36-3208, defining characterization of discharge, states that an Honorable discharge should be awarded when "a member's service is otherwise so meritorious that any other characterization would be inappropriate." A general (Under Honorable Conditions) discharge is appropriate if an airman's misconduct and/or poor performance outweighs the positive aspects of the airman's military record. An under other than honorable conditions discharge (UOTHC) is appropriate when the member's conduct is a significant departure from that which is expected of airman. A UOTHC discharge requires the member be given a hearing before a panel of officers. However, paragraph 1.21.3 of AFI 36-3208 applies in this case and it states, "Do not discharge an airman under other than honorable conditions if the sole basis for discharge is a serious offense that resulted in conviction by a court-martial that did not adjudge a punitive discharge unless such characterization is approved by the Secretary of the Air Force."

2. A review of all the aggravating and mitigating circumstances presented by the evidence indicates [REDACTED] discharge should be characterized as a general discharge. Repeated use of cocaine and methamphetamine is clearly a negative aspect of [REDACTED] military career that is not otherwise outweighed by any aspect of her service record. Therefore, if you wish to recommend that [REDACTED] receive an honorable discharge, you must forward the package to 3 AF/CC for final action, IAW paragraph 5.56.2.1. Alternatively, if you wish to recommend that she be separated with a UOTHC discharge, you must first obtain approval from the SECAF, as discussed above. As the Separation Authority, you may approve [REDACTED] separation with a general (Under Honorable Conditions) discharge without additional disposition.

c. **Probation and Rehabilitation:** Airman separated for drug abuse are not eligible for probation and rehabilitation pursuant to AFI 36-3208, Paragraph 7.2.6.

6. **LEGAL SUFFICIENCY:** This discharge package is legally sufficient to support separation of the Respondent with a general discharge.

7. **OPTIONS:** As the Separation Authority, you have the following options in this case:

- a. You may retain the Respondent if you find that the facts do not warrant discharge; or
- b. You may approve separation and recommend to 3 AF/CC that the Respondent be discharged with an honorable discharge; or
- c. You may request permission from SECAF to proceed with processing this case as a UOTHC; or
- d. You may approve separation and discharge the Respondent with a general discharge.

8. **RECOMMENDATION:** Approve the separation of [REDACTED] with a general discharge by signing the attached order.

[REDACTED]

Attachments:

1. Proposed Separation Order for 100 MSS/DPMAR
2. Discharge Package [REDACTED]
3. AF Form 1359, Report of Result of Trial, [REDACTED] dtd 5 Jun 00
4. Special Court-Martial Convening Authority Action [REDACTED] dtd 27 Jun 00
5. DD Form 2697, Report of Medical Assessment [REDACTED], dtd 18 Oct 00



UNITED STATES EUROPEAN COMMAND
JOINT ANALYSIS CENTER
UNIT 8845 BOX 290
APO AE 09469

12 October 2000

MEMORANDUM FOR [REDACTED]

FROM: CSAF (USAF Element Commander)
RAF Molesworth, United Kingdom
APO AE 09469

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 discharge will be characterized as General, Under Honorable Conditions. I am recommending that your service be characterized as General, under Honorable Conditions.

2. My reason for this action is based on the following:

That between on or about 1 January 1999 and on or about 31 May 1999, you wrongfully used cocaine and methamphetamine, in violation of Article 112a of the Uniform Code of Military Justice (UCMJ). For that misconduct, you were convicted by Special Court-Martial on 5 June 2000. AF Form 1359, Report of Result of Trial and Convening Authority's Action are attached.

3. Copies of the documents to be forwarded to the separation authority, in support of this recommendation are attached, with the exception of your record of trial, which was served on you on 19 June 2000. The Commander, 100th Air Refueling Wing (USAFE), 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.

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 see [REDACTED] of the RAF Lakenheath Area Defense Counsel, DSN 226-3608 (226-2102 FAX), on 12 October 2000, at 1400 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you wish the separation authority to consider must reach me by 16 October 2000, unless you receive an

extension for good cause shown. I will forward whatever material you submit to the separation authority, 100 ARW/CC.

6. If you fail to consult counsel or to submit statements in your own behalf, such 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 RAF Lakenheath Flight surgeon's Office, Physical Examinations Section, Building 926, on

18 October 2000, at 0800 hours, for the 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 423 ABS Orderly Room.



Attachments:

1. AF Form 1359, Report of Result of Trial
2. Convening Authority's Action
3. Receipt of Notification Memorandum

7. Supporting Documents

- D. Document 4: Certificate of Release of Discharge from Active Duty
- E. Document 5: Joint Service Achievement Medal Certificate
- F. Document 6: Enlisted Performance Report -- 3 Reports
- G. Document 7: Character References -- 15 Letters

8. Issues

AFI 36-3208 states that a General Under Honorable Conditions Discharge is appropriate if an airman's misconduct and/or poor performance outweighs the positive aspects of the airman's military record. During a four-month period I used drugs on four occasions. The character reference letters included in this packet will show that the positive aspects during my military service definitely out way the poor aspects.

The other issue I want to address is that this whole situation was unjust. At the time of my sentencing it was a year and a half after the use of these drugs. This whole situation was brought to the surface because a fellow service member told on me. This particular service member failed a urinalysis. He was being sent to confinement for his actions. He failed another urinalysis when he entered confinement. He made a deal with the legal department at our base in England and received the same discharge as me. He felt the need to make this deal due to the fact they were going to send him to court martial again for failing the second test. Plus, he was being charge for perjury for lying at his first court martial when he stated that it was a one-time thing only. I took two drug tests. One was a hair analysis test and the other a urinalysis. Both came back negative. I showed integrity and admitted to these charges, which resulted in my prosecution. I spent forty-five days in confinement for a crime that I committed a year and a half before. Now, three years later I am still paying for this crime. I was wrong when I did these things and I am sorry. I am sorry every day of my life for being irresponsible and disrespectful to the United States Air Force, my chain of command and myself. I feel there comes a time when a person should be able to move on with their life instead of paying for something that they stopped doing themselves. I wasn't caught doing these things. I realized myself that these things were wrong and uncharacteristic of me and I stopped. I don't think I deserve a medal for doing this, but I think I deserve to be treated a little differently from those who were caught and stopped as a result. With today's economy if I am just as qualified as someone else, they will get the job before me due to this whole situation. I lost the opportunity to work for Reliant Energy due to this discharge and the situation leading up to it. Please consider giving me an Honorable Discharge so I can move on from this part of my life and begin a new chapter to it. It will always be a part of my military record and I will never forget the lesson I learned during this whole ordeal. I am hoping that this will be the point in time where I can finally leave it in my record, instead of having to be reminded of it every time I fill out a job application. Thank you for your time and consideration on this matter.

Respectfully,

