

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
[REDACTED]	A1C	[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 A94.05	INDEX NUMBER A66.00	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
HEARING DATE 10 APR 03	CASE NUMBER FD2002-0440	

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	SIGNATURE OF BOARD PRESIDENT
[REDACTED]	[REDACTED]

INDORSEMENT	DATE: 10 APR 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

FD02-0440

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: Applicant contends that his discharge was improper because it was based on a past incident that was proved to be a wrong place wrong time situation. The record indicates the applicant received an Article 15 for wrongfully using marijuana. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The Characterization of the discharge received by the applicant was found to be appropriate. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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

MISSING MEDICAL RECORDS

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 12 Apr 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 1 Sep 78. Enlmt Age: 19 5/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-61, E-46, G-42, M-30. PAFSC: 3P051 - Security Forces Journeyman. DAS: 27 Jul 98.

b. Prior Sv: (1) AFRes 5 Feb 98 - 24 Feb 98 (20 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 25 Feb 98 for 4 yrs. Svd: 4 Yrs 1 Mo 19 Das, all AMS.

b. Grade Status: A1C - 27 Feb 02 (Article 15, 27 Feb 02)
 SRA - 25 Feb 01
 A1C - 25 Jun 99
 AMN - 25 Aug 98

c. Time Lost: None.

d. Art 15's: (1) 27 Feb 02, Minot AFB, ND - Article 112a. You, did, in the continental United States, between on or about 9 Dec 01 and on or about 9 Jan 02, wrongfully use marijuana. Reduction to the grade of A1C, forfeiture of \$200.00 pay per month for 2 months, and 14 days extra duty. (Appeal denied) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 25 Feb 98 - 24 Oct 99 Minot AFB 5 (Initial)
 25 Oct 99 - 5 Sep 00 Minot AFB 5 (CRO)
 06 Sep 00 - 5 Sep 01 Minot AFB 5 (Annual)

(Discharged from Minot AFB)

h. Awards & Decs: AFTR, AFLSA, AFGCM, AFOUA, FPB.

i. Stmt of Sv: TMS: (4) Yrs (2) Mos (8) Das
TAMS: (4) Yrs (1) Mos (19) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 9 OCT 02.
(Change Discharge to Honorable)

Issue: I feel my discharge was inappropriate and was not reviewed carefully. If my records were reviewed correctly and my situation was not based on a past incident that was proved to be a wrong place wrong time situation; I feel that my discharge would have been decided differently (sic). Line 13 on my DD Form 214 says it all.

ATCH

1. DD Form 214.

28 Jan 03/cr



DEPARTMENT OF THE AIR FORCE *FD2002-044 D*
HEADQUARTERS 5TH BOMB WING (ACC)
MINOT AIR FORCE BASE, NORTH DAKOTA

MAR 22 2002

MEMORANDUM FOR [REDACTED] 5 SFS

FROM: 5 SFS/CC

SUBJECT: Letter of Notification - AFI 36-3208, Paragraph 5.54.

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, drug abuse. The authority for this action is AFDP 36-32, *Military Retirements and Separations*, 14 Jul 93, and AFI 36-3208, *Administrative Separation of Airman*, 14 Oct 94, Chapter 5, Section H, Paragraph 5.54. If my recommendation is approved, your discharge will be characterized as general or honorable. I am recommending that your service be characterized as general.
2. My reason for this action is: You did, in the continental United States, between on or about 9 Dec 01 and on or about 9 Jan 02, wrongfully use marijuana. You were punished under Article 15 of the UCMJ on 27 Feb 02 and an Unfavorable Information File was established. (Atch 3)
3. The Letter of Notification with attachments will be forwarded to the separation authority in support of this recommendation. The Commander exercising SPCM jurisdiction (5 BW/CC) 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.
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] the Area Defense Counsel, at 300 Summit Drive, Room 306A, at 1500 hours on 25 MAR 2002. You may consult civilian legal 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 1400 hours on 27 MAR 2002, unless you request and receive an extension for good cause shown. I will then send them to the separation authority.
6. If you fail to consult legal counsel or to 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 examination. You must report to the 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND, at 0700 hours on 25 MAR 2002, for the examination. You must not drink alcoholic beverages 72 hours prior to the exam.

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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. Execute the attached acknowledgment and Statement of Understanding and return them to me immediately.



Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 18 Mar 02