

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
[REDACTED]		AMN	[REDACTED]			
TYPE GEN	PERSONAL APPEARANCE		X RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	NO					
	X					
MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOHC	OTHER	DENY
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
ISSUES A94.53, A92.37, A93.17		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 24 JUN 03		CASE NUMBER FD2002-0479		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	SIGNATURE OF BOARD PRESIDENT
[REDACTED]	[REDACTED]

INDORSEMENT	DATE: 24 JUN 03
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

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0479

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

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant was discharged for misconduct, drug abuse. A positive urinalysis in May 1999 disclosed the presence of marijuana, for which member pled guilty and was found guilty by Special Court Martial but did not receive a punitive discharge. Member testified at court and admitted in a signed sworn statement that he did use marijuana while attending his sister's birthday party with family and friends. At the time of the offense, member was a noncommissioned officer with over 18 years service. Member elected to waive his right to have his case heard by an administrative discharge board, as well as consideration for lengthy service probation. Additionally, member failed to submit statements in his own behalf at the time of discharge. The record review also disclosed member had an Article 15 for assaulting his wife, assaulting a civilian, using provoking speech to a police officer, and endangering his children during the enlistment under review. Member's appeal of the resulting reduction in grade was denied. Member also had a referral Enlisted Performance Report (EPR) rated an overall "3" out of "5" based on that incident, and was relieved of duty for cause from the recruiting career field. Additionally, during a previous enlistment member had used and possessed marijuana and hashish at an overseas location in 1982 while on active duty in the service, which resulted in a positive urinalysis and decertification from the Security Police career field. The Board noted that the Air Force's drug policy was well publicized and members were continually made aware that illegal drug use was not tolerated. Drug abuse by a noncommissioned officer is a particularly serious failure to meet Air Force standards that does not warrant an honorable characterization of service. The Board could find no inequity or impropriety on which to base an upgrade to 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

(Former AMN) (HGH TSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 22 Nov 99 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 4 Aug 63. Enlmt Age: 17 4/12. Disch Age: 36 3/12. Educ: HS DIPL. AFQT: N/A. A-75, E-78, G-82, M-40. PAFSC: 2S051 - Supply Management Journeyman. DAS: 6 Jan 98.

b. Prior Sv: (1) AFRes 29 Dec 80 - 25 Jun 81 (5 months 28 days) (Inactive).

(2) Enlisted as AB 26 Jun 81 for 6 yrs. Extended 21 Aug 86 for 22 months. Reenlisted as SSgt 30 Sep 88 for 4 yrs. Reenlisted as SSgt 03 Jul 91 for 4 yrs. Extended as 30 Aug 94 for 4 months. Svd: 14 yrs 1 month 0 days, all AMS. A1C - 11 Aug 81. SRA - 1 Jun 84. SSgt-(APR Indicates): 22 May 85-21 May 86. TSgt - 1 Dec 92. APRs: 8,8,9,9,8,9,9,9,7,9. EPRs: 4,4,4,5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as TSgt 27 Jul 95 for 6 yrs. Svd: 4 Yrs 3 Mo 26 Das, of which AMS is 4 yrs 1 months 12 days (2 months 14 days lost time).

b. Grade Status: Amn - 3 Aug 99 (SPCMO#1, 4 Oct 99)
SSgt - 24 Feb 97 (Article 15, 24 Feb 97)

c. Time Lost: 3 Aug 99 thru 15 Oct 99 (2 months 14 days)

d. Art 15's: (1) 24 Feb 97, Fort Myers, FL - Article 128. You, did, on or about 26 Nov 96, unlawfully strike ----- in the right cheek with your fist. You, did, on or about 26 Nov 96, unlawfully strike ----- with your fist. Article 116. You, did, on or about 26 Nov 96, cause a breach of peace by wrongfully engaging in a fist fight with -----, on Colonial Blvd, a public street, and using the following provoking language toward a police officer, to wit: "Fuck that," or words to that effect. Article 134. You, did, on or about 26 Nov 96, through culpable negligence, expose your children, ----- and -----, to personal injury, by leaving them in a driverless car, when you forcefully pulled the driver from the vehicle. Reduction to SSgt. (Appeal/Denied) (No mitigation)

e. Additional: None.

f. CM: Special Court Martial Order No.1 - 4 Oct 99.

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

Specification: Did, at or near MacDill AFB, FL, between on or about 13 Apr 99 to on or about 13 May 99, wrongfully use marijuana. Sentence adjudged by officer and enlisted members on 3 Aug 99: Reduction to the grade of airman (E-2), and confinement for 3 months.

g. Record of SV:	19 May 95 - 18 May 96	Fort Myers	4	(Annual)
	19 May 96 - 14 Oct 96	Fort Myers	5	(CRO)
	15 Oct 96 - 13 Jun 97	Punta Gorda	3	(CRO)REF
	14 Jun 97 - 16 Jun 98	Mac Dill AFB	5	(Annual)
	17 Jun 98 - 23 Apr 99	Mac Dill AFB	5	(CRO)

(Discharged from Mac Dill AFB)

h. Awards & Decs: AFAM, AFCM, AFLSAR W/3 DEVS, AFTR, AFOSSTR, AFOSLTR W/1 DEV, NDSM, SAEMR, NCOPMER W/1 DEV, AFOUA W/3 DEVS, AFGCM W/4 DEVS.

i. Stmt of Sv: TMS: (18) Yrs (8) Mos (10) Das
TAMS: (18) Yrs (2) Mos (13) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 1 Nov 02.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

None.

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FD2002-0411

DEPARTMENT OF THE AIR FORCE
6TH AIR REFUELING WING (AMC)
MACDILL AIR FORCE BASE, FLORIDA

OCT 12 1999

MEMORANDUM FOR AIRMAN [REDACTED]

FROM: 6 SUPS/CC

SUBJECT: Notification Memorandum - Board Hearing

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. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. My reasons for this action are as follows: Between on or about 13 April 1999 to on or about 13 May 1999, you wrongfully used marijuana. This incident resulted in your conviction at a Special Court-Martial the result of which was reported on AF Form 1359, Report of Result of Trial, dated 3 Aug 99 and set forth in the Action dated 4 Oct 99.
3. This action could result in your separation with an under honorable conditions (general) discharge. I am recommending that you receive an under honorable conditions (general) discharge. The commander exercising Special Court-Martial (SPCM) jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.
4. You have the right to:
 - a. Consult legal counsel.
 - b. Present your case to an administrative discharge board.
 - c. Be represented by legal counsel at a board hearing.
 - d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
 - e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.
5. You have been scheduled for a medical examination. You must report to the 6th Medical Group Hospital - Physical Exams, at 0930 hours on 13 Oct 99 for Part I and at 1340 hours on 13 Oct 99 for Part II.
6. Military counsel Capt [REDACTED] has been obtained to assist you. An appointment has been scheduled for you at the MacDill AFB Area Defense Counsel's office on 14 Oct 99 at 1400 hours. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In

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addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.


7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

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 unit orderly room.

9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

10. The discharge board or the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005 (g).

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


Maj, USAF
Commander, 6th Supply Squadron

Attachments:

1. Respondent's Acknowledgment
2. Special Court-Martial Action, dated 4 Oct 99
3. AF Form 1359, Report of Result of Trial
4. Memorandum for Record, dated 2 Jun 99
5. AF Form 1168, Statement of suspect/witness/complainant, dated 7 Jun 98
6. Care Inquiry from Record of Trial, dated 3 Aug 99
7. AF Form 3070, Nonjudicial Punishment Proceedings, dated 7 May 97