

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD						
NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>				GRADE <div style="background-color: black; width: 100%; height: 15px;"></div>		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>
TYPE	PERSONAL APPEARANCE			X RECORD REVIEW		
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	No					
	X					
MEMBER SITTING				VOTE OF THE BOARD		
				HON	GEN	UOTHC
						OTHER
						DENY
						X
						X
						X
						X
						X
ISSUES A67.30, A92.35		INDEX NUMBER A67.30		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 DATE 24 Oct 2003						
CASE NUMBER FD2002-0544						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONAL						
<p>Case heard at Albany, New York</p> <p>Advise applicant of the decision of the Board and his right to request a personal appearance.</p>						
SIGNATURE OF RECORDER <div style="background-color: black; width: 100%; height: 15px;"></div>				SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 15px;"></div>		
INDORSEMENT						
TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002		

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE	CASE NUMBER FD2002-0544
<p>GENERAL: The applicant appeals for upgrade of discharge to honorable.</p> <p>The applicant was scheduled for a personal appearance at Albany, New York on 24 October 2003, but on 15 September 2003 cancelled his appearance and requested a non-personal appearance.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge is denied.</p> <p>The Board finds that neither the evidence of record nor the evidence provided by the applicant substantiates and inequity or impropriety that would justify a change of discharge characterization.</p> <p>ISSUE:</p> <p>Applicant was discharged for the commission of a serious offense. According to an AFOSI report of investigation, the applicant wrongfully possessed 131.39 grams of marijuana, sold marijuana to high school students, sold marijuana at his off-base residence, and possessed drug paraphernalia. At the time of his discharge, his case had not been heard in civilian court. The applicant first requested his case be heard by an administrative discharge board, but later unconditionally waived his right to an administrative discharge board. He did not submit matters on his own behalf at the time of his unconditional waiver. He contends his discharge was inequitable because it was based on one isolated incident during his enlistment. He stated that there is no excuse for his actions and submits that family financial needs placed a great deal of pressure on him. He stated that he regrets his illegal behavior and contends that the OSI report is misleading. At the time his discharge was initiated, he was given extracts of the AFOSI report as well as other evidence supporting his discharge. He wishes the Air Force had waited to discharge him until after his court appearance. There is no requirement, however, for the Air Force to do so. Furthermore, the Air Force did not discharge him for a civilian conviction; rather it chose to separate him for the underlying misconduct. The Board noted that wrongful involvement with illegal drugs is incompatible with Air Force standards and that the seriousness of the applicant's misconduct outweighed his otherwise satisfactory service. Additionally, the Board applied the presumption of regularity in deciding that the discharge action and characterization were appropriate. A preponderance of the evidence supports the discharge action and characterization.</p> <p>CONCLUSIONS: The Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the separation authority and that the applicant was provided full administrative due process.</p> <p>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 characterization of the applicant's discharge should not be changed.</p> <p>Attachment: Examiner's Brief</p>	

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 18 Oct 99 UP AFI 36-3208, para 5.52 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 24 Jan 77. Enlmt Age: 18 5/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-67, E-43, G-41, M-32. PAFSC: 2S051 - Supply Management Journeyman. DAS: 28 Apr 96.

b. Prior Sv: (1) AFRes 30 Jun 95 - 2 Jan 96 (6 months 11 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Jan 96 for 4 yrs. Svd: 3 Yrs 9 Mo 16 Das, of which AMS is 3 yrs 9 months 8 days (excludes 8 days lost time).

b. Grade Status: SRA - 11 Jan 99
A1C - 03 May 97
AMN - Unknown

c. Time Lost: 6 Jun 99 thru 13 Jun 99 (8 days).

d. Art 15's: None.

e. Additional: LOR, 16 DEC 98 - Speeding, reckless driving, failure to maintain lane, and driving while intoxicated.
4 JUN 98 - Civil arrest for possession and distribution of controlled substance (Marijuana) in a drug free zone.
LOR, 13 DEC 96 - Driving without a seat belt.
LOR, 09 OCT 96 - Possession of alcoholic beverages under the age of 21.

f. CM: None.

g. Record of SV: 03 Jan 96 - 27 Oct 97 McGuire AFB 4 (Initial)
28 Oct 97 - 27 Oct 98 McGuire AFB 5 (Annual)

(Discharged from McGuire AFB)

h. Awards & Decs: AFTR, AFOUA W/3 DEVS, AFGCM.

i. Stmt of Sv: TMS: (4) Yrs (3) Mos (11) Das

FD2002-0554

TAMS: (3) Yrs (9) Mos (8) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 13 Dec 02.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable for the fact it was based on one isolated incident in my 46 months in service with no prior incidents (disciplinary). There is no excuse for my actions in the past that led to an embarrassing military career. At that time I was faced with a lot of pressure with family issues. My mother, who was and still is was very ill. I was paying her rent, electric and as well as food, and credit cards. My wife was living in New York City and my son in New Jersey. Money was needed everywhere and while in the Air Force I maintained several 2nd jobs. While at McGuire AFB both my hometowns were less than a hour away. Wrong descions (sic) were made to help out my family members tribulations. I regret my illegal behavior and am still suffering from this mistake. I let down my God, my country and my family due to my actions. I would like to request for an upgrade to put this behind me. If I was in control of the situation, I would beg the military to let me resume duty for my country. Knowing that is impossible, I would settle for a chance of an upgrade hearing to turn my abashment conduct into something positive.

ATCH

1. Two Character References.
2. Training Certificate.
3. Police Report.
4. DD Forms 214.
5. Records Transmittal Request.
6. Veteran's Affairs Correspondence.

6MAR03/ia



FD 2002-0544

DEPARTMENT OF THE AIR FORCE
305th Supply Squadron (AMC)

MEMORANDUM FOR SENIOR AIRMAN [REDACTED]

10 Sep 99

FROM: 305 SUPS/CC

SUBJECT: Notification Memorandum – Board Hearing

1. I am recommending your discharge from the United States Air Force for Commission of A Serious Offense. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.52. If my recommendation for discharge is approved, your service may be characterized as Honorable, General, or Under Other Than Honorable Conditions. I am recommending that your service be characterized as Under Other Than Honorable Conditions.

2. My reasons for this action are:

- a. Between on or about 1 May 99 and 4 Jun 99, you wrongfully possessed marijuana at your off-base residence, [REDACTED]. You stored the marijuana in your house in the following containers: 61 glass vials, 11 clear plastic zip-lock bags, a "chocolate chip" bag. The total weight of marijuana found in your residence was 131.39 grams.
- b. Between on or about 1 May 99 and 4 Jun 99, you traveled to New York City to purchase marijuana with another active duty airman.
- c. Between on or about 1 May 99 and 4 Jun 99, you and another airman, [REDACTED], worked together arranging sales of marijuana to high school students.
- d. Between on or about 1 May 99 and 4 Jun 99, you sold marijuana from your off-base residence, [REDACTED].
- e. On 4 Jun 99, you possessed drug paraphernalia at your off-base residence, [REDACTED]. The drug paraphernalia included 89 empty glass vials, a Fischer EMD electronic scale, 1 pink zip-lock bag, and 1 clear zip-lock "apple" bag and two electronic pagers.

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) discharge. I am recommending that you receive an Under Other Than Honorable Conditions discharge. The commander exercising SPCM jurisdiction or higher 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 Walson Air Force Hospital at 1440 hours on 13 Sep 99. ~~██████████~~ Family Practice

6. Military legal counsel, ~~██████████~~ ^{4F Gpm 2697 / 20 min. early from Phys exams} Bldg 2906, First Floor, 724-2349, has been obtained to assist you. An appointment has been scheduled for you to consult him on ~~13 Sep~~ 13 Sep 0900. 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 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 board 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 a 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 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.



Commander

Attachments

1. Extract, AFOSI Report of Investigation #99307D17-S870977, six pages, 28 Jul 99
2. Evidence Log, East Windsor Township Police, 4 Jun 99
3. Arrest Summary Report, East Windsor Township Police, 5 Jun 99
4. Extract, Detail Incident Report, East Windsor Township Police, ten pages, 23 Jun 99
5. Request for Examination of Evidence, 8 Jun 99
6. Certified Laboratory Report, 2 Jul 99
7. Letter of Reprimand, 9 Oct 96
8. LOR, 13 Dec 96
9. LOR, 16 Dec 98
10. Airman's Acknowledgement of Notification Memorandum