







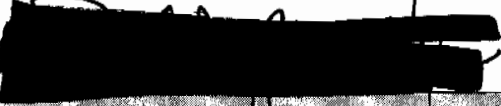


AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 		GRADE AB	AFSN/SSAN 
TYPE	PERSONAL APPEARANCE	X RECORD REVIEW	
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	NO		
	X		
MEMBERS SITTING		VOTE OF THE BOARD	
		HON	GEN
		UOTHC	OTHER
		DENY	
			X
			X
			X
			X
			X
ISSUES A93.17, A94.01, 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 1 AUG 03	CASE NUMBER FD2003-00131		
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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 	
INDORSEMENT		DATE: 1 AUG 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

FD2003-00131

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 that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

Issues: The applicant contends his discharge was inequitable because it was too harsh. Applicant was discharged for misconduct - drug abuse. He was given an Article 15 for wrongfully using marijuana. The member totally denies using marijuana; however, his tetrahydrocannabinol (THC) level was well above the DoD cutoff level. At the time of discharge, member consulted counsel and submitted statements in his own behalf. Member was age 25 when his misconduct happened--older than other airmen who honorably complete their service without misconduct. There was no evidence member did not know right from wrong. The Board determined member was responsible for his actions and held accountable for them and his misconduct was a significant departure from conduct expected of all military members. The Board did not find sufficient mitigation to warrant an upgrade, and no inequity or impropriety was found in this discharge in the course of the records review.

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

[REDACTED]
[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 20 Dec 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 23 Mar 77. Enlmt Age: 24 0/12. Disch Age: 25 8/12. Educ: HS DIPL. AFQT: N/A. A-83, E-64, G-72, M-47. PAFSC: 3C031 - Communications-Computer Systems Operations. DAS: 1 Oct 01.

b. Prior Sv: (1) AFRes 5 Apr 01 - 16 Apr 01 (12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 17 Apr 01 for 4 yrs. Svd: 1 Yr 8 Mos 4 Das, all AMS.

b. Grade Status: AB - 30 Oct 02 (Article 15, 30 Oct 02)

c. Time Lost: None.

d. Art 15's: (1) 30 Oct 02, Maxwell AFB, AL - Article 112a. You did, within the Continental United States, on or about 9 Sep 02, wrongfully use marijuana. Reduction to AB, 30 days restriction, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: None.

(Discharged from Maxwell AFB)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (1) Yrs (8) Mos (16) Das
TAMS: (1) Yrs (8) Mos (4) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 15 Mar 03.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

FD2003-00131

ATCH

1. Applicant's Issues.
2. Response to Administrative Discharge.

7MAY03/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

Memorandum For the Separation Authority

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

To whom it may concern,

I would like to first thank you for giving me the opportunity to have my discharge upgraded from General to Honorable. When determining the characterization of my discharge, I would encourage you to review all of the documentation I presented to my commander found in my military records. The main reason why I feel that my discharge should be upgraded is because I did not commit the offense that I am being accused of. The Documentation that I have included fully explains what happened. The other issue that truly concerned me were the steps that were taken during my discharge. My commander, Major [redacted] chose to you non-judicial punishment after reviewing the charges and consulting with me. She took two stripes and gave me 30 days of base restriction. I still felt this punishment was not fair because I did not committ the offense I was being charged with. I accepted and completed the punishment, because I wanted to continue my Air Force career. A few days after completing my 30 days of base restriction, Major [redacted] informed me that she would be requesting for me to be discharged under honorable conditions. I feel that this was totally unfair, because I had already been reprimanded and completed my punishment. I was informed that non-judicial punishment did not constitute any kind of discharge. If I knew that I had a change to get discharged non-judicially, I would have never accepted the punishment and would have chosen to be court-martialed where I could have been represented by my lawyer.

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

2003/03/15

b. SIGNATURE

[Redacted Signature]

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200	Naval Council of Personnel Boards Bldg. 36 - Washington Navy Yard 901 M Street, S.E. Washington, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (WPM-60) U.S. Coast Guard Headquarters Washington, DC 20593-0001

FD 2003 - 00131



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 42D AIR BASE WING (AETC)
MAXWELL AIR FORCE BASE ALABAMA

12 NOV 2002

MEMORANDUM FOR AB [REDACTED]

FROM: 42 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct – Drug Abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If you are discharged, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My specific reason for this action is: On or about 09 September 02, the urine sample you submitted during a random urinalysis tested positive for marijuana at a level of 30ng, the DOD Cutoff Level is 15ng. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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.
3. 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 13 Nov 02 at the Area Defense Counsel at Building 40 on Maxwell AFB at 1000 hours. You may consult civilian counsel at your own expense.
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 15 Nov 02 unless you request and receive an extension for good cause shown. I will send them to the separation authority.
5. 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.
6. You have been scheduled for a medical examination. You must report to the Physical Examinations, 42d Medical Group, Maxwell AFB, Alabama, at _____ on _____ for the examination.
7. The Privacy Act Statement of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use at the Area Defense Counsel's office.

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



Maj, USAF

Commander, 42CS

Attachments:

1. Urinalysis Result, dated 19 Sep 02
2. Other Derogatory Data – AF Form 3070, Record of Nonjudicial Punishment Proceedings, 30 Oct 02