

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
[REDACTED]		AB	[REDACTED]			
TYPE	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	UOTHC	OTHER	DENY
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
[REDACTED]						X
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD		
A94.05		A74.00		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		CASE NUMBER				
30 JUL 03		FD2003-0162				

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: 30 JUL 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

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 provides a sufficient basis in clemency for a change of discharge.

The applicant did not receive an administrative discharge, thus his contention of inequity is not applicable. The applicant received a Bad Conduct Discharge, a punitive discharge, as part of her sentence resulting from a Special Court-Martial conviction. Under the provisions of Section 1553, 10 USC, the only basis for change of a Bad Conduct discharge is clemency. The Applicant presented evidence, which the DRB opined, did not warrant granting clemency.

CONCLUSIONS: The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

Attachment:
Examiner's Brief

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

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF 8 May 01 UP Special Court Martial (Conviction by Court Martial - Drug Abuse). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 29 Jul 79. Enlmt Age: 19 4/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-60, E-43, G-44, M-40. PAFSC: 1T131 - Aircrew Life Support Apprentice. DAS: 24 May 99.

b. Prior Sv: (1) AFRes 28 Dec 98 - 26 Jan 99 (1 month) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 Jan 99 for 4 yrs. Svd: 2 Yrs 3 Mo 11 Das, of which AMS is 1 yr 10 months 9 days (excludes 5 months 3 days lost time).

b. Grade Status: AB - 1 Jun 00 (Article 15, 1 Jun 00)
Amn - 27 Jul 99

c. Time Lost: 31 Jul 00 thru 1 Jan 01 (5 months 3 days).

d. Art 15's: (1) 1 Jun 00, Hurlburt Field, FL - Article 112a. You did, on or about 1 Sep 99, and on or about 3 Feb 00, wrongfully use the controlled substances cocaine, crack cocaine, and methlenedioxymethylamphetamine. Reduction to AB, and a suspended forfeiture of \$150.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: LOC, 15 DEC 99 - Failure to obey an order and using inappropriate language.

LOR, 07 OCT 99 - Late for work.

RIC, 09 JUL 99 - Late for work.

RIC, 09 JUL 99 - Disrespect to supervisor and failure to comply with Air Force standards of appearance.

f. CM: Special Court Martial No.10 - 5 Sep 00.

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

Specification 1: In that Airman Basic [REDACTED], 20th Special Operations Squadron, Hurlburt Field, Florida, U.S. Air Force, did, on divers occasions, within the State of Florida, between on or about 20 Jun 00 and on or about 10 Jul 00,

wrongfully use cocaine. Plea: Guilty. Finding: Guilty.

Specification 2: In that Airman Basic [REDACTED] 20th Special Operations Squadron, Hurlburt Field, Florida, U.S. Air Force, did, within the State of Florida, between on or about 27 Jul 00, wrongfully use marijuana. Plea: Guilty. Finding: Guilty. Sentence adjudged by the military judge on 31 Jul 00. Bad conduct discharge and confinement for 5 months. (Sentence affirmed by SPCM Order No.4, 8 May 02).

g. Record of SV: None.

(Discharged from Hurlburt Field)

h. Awards & Decs: AFTR, AFOUA W/VALOR.

i. Stmt of Sv: TMS: (1) Yrs (11) Mos (8) Das
TAMS: (1) Yrs (10) Mos (9) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Mar 03.
(Change Discharge to Honorable)

Issue 1: I am requesting that my BAD CONDUCT DISCHARGE-RE CODE 2K be changed to GENERAL/UNDER HONORABLE CONDITIONS-RE CODE 2I. I made a serious error in judgement while on Active Duty and due to my immaturity I didn't understand the implications of my actions. I did not fully understand the need to review my records before outprocessing and I was unavailable to review and sign my DD214 upon discharge.

I have been trying to do some positive things in my life and my BCD is a hurdle that continues to hamper my progress. I would like another opportunity to serve my country and continue my education, but I can't due to my reenlistment eligibility. I am not denying responsibility for my past actions, I am just requesting a chance to correct some bad decisions made during a trying time in my life.

ATCH
None.

15MAY03/ia

FD 2003-00162



DEPARTMENT OF THE AIR FORCE
20th SPECIAL OPERATIONS SQUADRON (AFSOC)

JUN 14 2000

MEMORANDUM FOR AB [REDACTED] 20 SOS

FROM: 20 TS/KW
16 SOS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically for drug abuse, according to AFD 36-32 and AFI 36-3208, under the provisions of section H, paragraph 5.54. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is that between on or about 1 Sep 99 and on or about 3 Feb 00, you wrongfully used cocaine, crack cocaine, and methlenediozymethylamphetamine (Ecstasy), for which you received punishment under Article 15, dated 1 Jun 00, and the establishment of an Unfavorable Information File (UIF).

3. In determining that you should be discharged and the characterization of your discharge, I have also considered the following misconduct:

a. On 10 Dec 99, you failed to obey an order of an NCO and used language that was inappropriate, for which you received a Letter of Counseling (LOC), dated 15 Dec 99.

b. Between on or about 28 Sep 99 and on or about 1 Oct 99, you failed to report to your appointed place of duty at the prescribed time, for which you received a Letter of Reprimand (LOR), dated 7 Oct 99.

c. On 8 Jul 99, you were disrespectful to a supervisor, failed to comply with Air Force Dress and Appearance standards, and failed to report to your appointed place of duty at the prescribed time, for which you received a LOC, dated 9 Jul 99.

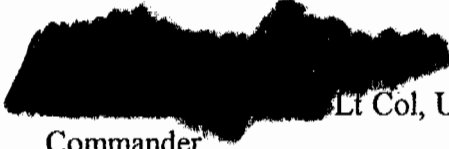
3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) discharge. I am recommending that you receive a UOTHC discharge. The commander exercising Special Court-Martial jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

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; or
 - e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your own rights.
5. You have been scheduled for a medical examination. You must report to the Hurlburt Clinic, at 1400 hours on 16 Jun 00 for the examination.
 6. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you at the Area Defense Counsel, Hurlburt Field, FL, Bldg 90042, 884-5216/5217, on 16 Jun 00 at 1030 hours. You may consult civilian counsel at your own expense. 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 will be provided upon your request.
 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. Execute the attached acknowledgment and return it to me immediately.



Lt Col, USAF

Commander

Attachments:

Supporting documents--for the reason for discharge

1. AF Form 3070, dtd 1 Jun 00
2. AF Form 1137, undated
3. LOC, dtd 15 Dec 99
4. LOR, dtd 7 Oct 99
5. AF Form 174, dtd 9 Jul 99
6. AF Form 174, dtd 9 Jul 99
7. Receipt of Airman's acknowledgment