

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 5px;"></div>		GRADE <div style="text-align: center; margin-top: 5px;">AB</div>	AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 5px;"></div>																																			
TYPE	PERSONAL APPEARANCE	<div style="text-align: center; margin-bottom: 5px;">X RECORD REVIEW</div>																																				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">COUNSEL</td> </tr> <tr> <td style="width: 50%; text-align: center;">YES</td> <td style="width: 50%; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;">X</td> </tr> </table>		COUNSEL		YES	No		X	NAME OF COUNSEL AND OR ORGANIZATION <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 5px;"></div>																														
COUNSEL																																						
YES	No																																					
	X																																					
		ADDRESS AND OR ORGANIZATION OF COUNSEL <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 5px;"></div>																																				
MEMBER SITTING		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="5" style="text-align: center; background-color: #cccccc;">VOTE OF THE BOARD</th> </tr> <tr> <th style="width: 15%;">HON</th> <th style="width: 15%;">GEN</th> <th style="width: 15%;">UOTHC</th> <th style="width: 15%;">OTHER</th> <th style="width: 15%;">DENY</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">X</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">X</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">X</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">X</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">X</td> </tr> </table>		VOTE OF THE BOARD					HON	GEN	UOTHC	OTHER	DENY					X					X					X					X					X
VOTE OF THE BOARD																																						
HON	GEN	UOTHC	OTHER	DENY																																		
				X																																		
				X																																		
				X																																		
				X																																		
				X																																		
ISSUES A01.13 A92.37 A94.05		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center; background-color: #cccccc;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> <tr> <td style="width: 5%; text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>TAPE RECORDING OF PERSONAL APPEARANCE</td> </tr> </table>		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																			
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																																					
INDEX NUMBER A66.00		CASE NUMBER FD-2003-00238																																				
HEARING DATE 19 Aug 2003		APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE																																				
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 <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 5px;"></div>		SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 5px;"></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 FD-2003-00238
<p>GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge, and to change his reenlistment code.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.</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 and change of reason and authority for the discharge, and change of reenlistment code are denied.</p> <p>The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.</p> <p>Issue. Applicant was discharged for drug abuse as a result of a positive urinalysis for the metabolites of marijuana at twice the Department of Defense cut-off, which he now contends was a departure from his normal behavior. The records indicated the applicant also had a Letter of Reprimand for failure to go. At the time of the discharge, member submitted matters indicating he was inadvertently involved when in the company of civilian friends, while they were smoking in the confines of a closed car over a 2-hour period. Member claimed he was the victim of passive inhalation. The Legal Review noted however that 21 days had elapsed from the date member said he was with his friends and the date he provided the urine sample. According to the Legal Review, the fact that the sample was positive after that period of time would indicate chronic use rather than passive inhalation. The Board concluded member's apparent misconduct was incompatible with Air Force standards and an extremely significant departure from conduct expected of all military members. Member would have been well aware of the Air Force's zero tolerance policy for drug abuse. For the period of service under review, his misconduct was sufficient reason for receiving a general discharge.</p> <p>While the Board commends applicant on his desire to return to military service, and is sympathetic to the impact a General discharge has on his reenlistment code, this is not a matter of equity or propriety that warrants an upgrade.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p>	

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

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

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 8 Jan 03 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 10 Jun 80. Enlmt Age: 21 4/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-40, E-41, G-42, M-31. PAFSC: 3P031 - Security Forces. DAS: 26 Jan 02.

b. Prior Sv: (1) AFRes 12 Oct 01 - 10 Dec 01 (1 month 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 11 Dec 01 for 6 yrs. Svd: 1 Yrs 0 Mo 29 Das, all AMS.

b. Grade Status: AB - 16 Dec 02 (Article 15, 16 Dec 02)

c. Time Lost: None.

d. Art 15's: (1) 16 Dec 02, Barksdale AFB, LA - Article 112a. You did, within the continental United States, between on or about 28 Sep 02, and 29 Oct 02, wrongfully use marijuana. Reduction to AB, forfeiture of \$500.00 pay per month for 2 months, and 15 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 11 OCT 02 - Failure to go.

f. CM: None.

g. Record of SV: None.

(Discharged from Barksdale AFB)

h. Awards & Decs: NDSM, AFOUA.

i. Stmt of Sv: TMS: (1) Yrs (2) Mos (28) Das
TAMS: (1) Yrs (0) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Jun 03.

(Change Discharge to Honorable, Change the RE Code, Reason and Authority for Discharge)

Issue 1: I have no prior use of marijuana. It was an error in judgement (sic) which I never thought would happen to airman like myself. Drug abuse is a departure from my customary behavior. I provided a second urine sample to prove that the results came back with negative results. I did everything in my nature from being discharged. To the commander's discretion he did so. I have no desire to engage in or intend to engage in drug abuse in the present and in the future. My Air Force career meant the world to me. Drug abuse took away what I worked so hard to build. I regret being around the substance. I sincerely apologize for embarrassing the Air Force. I will do anything to bring credit back upon the Air Force and myself. Allow me the chance to move past this incident and allow me to earn discharge upgrade to honorable so that one day I will be able to join the Air Force team again or another military branch of service. I am a productive member in the United States Military and I promise that I will continue and give 110 percent in all I do. Thank you for your time and consideration.

ATCH

1. AF Form 3070, Record of Nonjudicial Punishment Proceedings.
2. Urinalysis Results.
3. Applicant's Issues.

10JUL03/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 2D BOMB WING (ACC)
BARKSDALE AIR FORCE BASE, LA

MEMORANDUM FOR AB [REDACTED]

DEC 23 2002

FROM: 2 SFS/CCE

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for drug abuse. The authority for this action is AFD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. If your discharge is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reason for this action are as follows:

a. Between on or about 28 Sep 02 and on or about 29 Oct 02, you wrongfully used marijuana as evidenced by a positive urinalysis test. For this incident, you received an Article 15, dated 16 Dec 02.

b. On or about 3 Oct 02, you failed to go at the time prescribed to your appointed place of duty. For this incident, you received a letter of reprimand, dated 11 Oct 02.

3. Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The separation authority will make the findings and recommendations required under 10 U.S.C. 2005(g) regarding recoupment of education assistance funds, if applicable. The commander exercising special court-martial 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 Capt [REDACTED], Area Defense Counsel, Building 4714, third floor, phone number 456-8355 at 1400 hours on 23 DEC 2002. You may consult civilian 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 1300 hours on 27 Dec 2002 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. 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.
7. You have been scheduled for a medical examination. You must report to the 2d Medical Group, Physical Exam Section at 1300 hours on 27 Dec 2002 and an additional examination will be scheduled if necessary.
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. Execute the attached acknowledgment and return it to me immediately.

A large, irregular black redaction mark covers the signature of the sender.

2Lt, USAF
Section Commander, 2d Security Forces

Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum