

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2003-00352

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 applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant received an Under Other Than Honorable Conditions (UOTHC) discharge pursuant to his request to be discharged in lieu of trial by court martial. Member was charged with using marijuana on divers occasions between 31 December 1998 and 6 February 2000, and with making a false official statement to his commander concerning his use of drugs. The record indicated member had previously been recommended for an administrative discharge for fraudulent enlistment. In that earlier administrative discharge action, the wing commander elected to waive discharge, thus effectively terminating the action and retaining member. This occurred in August 1999. Subsequently in February 2000, member's random urinalysis came back positive for the presence of marijuana. That prompted the Air Force Office of Special Investigations to interview member, during which member admitted under rights advisement the details about both his pre-service drug abuse and frequent in-service marijuana use. Applicant now comes admitting he made a "big mistake" and requesting an upgrade based on his post-service conduct. While the Board commends applicant on his post-service accomplishments, the Board concluded member's misconduct was a particularly serious failure to meet Air Force standards and an extremely significant departure from conduct expected of all military members. The Air Force's drug policy was well publicized and members were continually made aware that illegal drug use was not tolerated. For the period of service under review, his misconduct was sufficient reason for receiving a UOTHC discharge. The Board further notes that applicant voluntarily submitted his request for discharge in lieu of trial by court martial, thus not attempting to establish his innocence or present any extenuating or mitigating factors. In doing so he acknowledged that under these circumstances his characterization of service could be deemed under other than honorable conditions in accordance with discharge regulations, wherein airmen so discharged usually do have their service characterized as UOTHC. The Board found no wrongful action by the Air Force, and 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

[REDACTED]

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 6 Jul 00 UP AFI 36-3208, Chapter 4 (Discharge in Lieu of Court Martial). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 16 Jul 80. Enlmt Age: 17 5/12. Disch Age: 19 11/12. Educ: HS DIPL. AFQT: N/A. A-67, E-31, G-41, M-18. PAFSC: 3M031 - Services Apprentice. DAS: 31 Oct 98.

b. Prior Sv: (1) AFRes 22 Dec 97 - 30 Jun 98 (6 months 9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 1 Jul 98 for 4 yrs. Svd: 2 Yrs 0 Mo 6 Das, all AMS.

b. Grade Status: A1C - 1 Nov 99
Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) None.

e. Additional: None.

f. CM: None.

g. Record of SV: 1 Jul 98 - 29 Feb 00 Aviano AB 5 (Initial)

(Discharged from Lackland AFB)

h. Awards & Decs: NATOM, AFOUA, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (6) Mos (15) Das
TAMS: (2) Yrs (0) Mos (6) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Jul 03.
(Change Discharge to Honorable)

Issue 1: I want to start off by saying over the last three years, I have realized what a big mistake I made. As the saying goes you learn from your mistakes.

I have used the knowledge and discipline obtained by the Air Force to secure a

job as a vendor for Pro Marketing Inc. The company is contracted by Home Depot, a material home improvement company, Dillard's, a southwest department store, and Garden Ridge Pottery, a southwest craft store. Our region(southwest) services a six state region that includes Texas, Mississippi, Oklahoma, New Mexico, Missouri, and Louisiana. I am supervisor of a four man crew that is responsible for building display modules and merchandising for 3M, Dal-Tile, Hoover Vacuum (sic), Edsal Shelving, Beaulieu Home and Oriental Weaver rugs, Traffic Master Vinyl tile, Custom, and Pergo and Harris Tarrket hardwood floors.

I continue to strive to improve all aspects of my life. My goal is to go to culinary school to continue what the Air Force introduced me to, cooking.

Issue 2: I respectfully request a review of my discharge, from the United States Air Force, and based on my continuous improvements of my life that my discharge be upgraded.

Thanking you in advance for your consideration in this matter.

ATCH

None.

29AUG03/ia

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)			2. SSN	3. GRADE OR RANK A1C	4. PAY GRADE E-3
5. UNIT OR ORGANIZATION 31st Services Squadron (USAFE) Aviano Air Base, Italy				6. CURRENT SERVICE	
				a. INITIAL DATE 980701	b. TERM 4 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED None	9. DATE(S) IMPOSED N/A	
a. BASIC \$1,171.50	b. SEA/FOREIGN DUTY \$0.00	c. TOTAL \$1,171.50			

II. CHARGES AND SPECIFICATIONS

10. CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 112a

SPECIFICATION:
In that AIRMAN FIRST CLASS: [redacted], United States Air Force, did at or near Aviano Air Base, Italy, on divers occasions between on or about 31 December 1998 and on or about 6 February 2000, wrongfully use marijuana.

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 107

SPECIFICATION:
In that AIRMAN FIRST CLASS: [redacted] United States Air Force, did at or near Aviano Air Base, Italy, on or about 20 May 1999, with intent to deceive, make to Lieutenant Colonel: [redacted] 31st Services Squadron commander, an official statement, to wit: I have never used drugs after that incident, or words to that effect, which statement was totally false, and was then known by the said Airman First Class: [redacted] to be so false.

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE Lt Col	c. ORGANIZATION OF ACCUSER 31st Services Squadron
d. SIGNATURE OF ACCUSER	e. DATE 23 May 00	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 23 day of MAY, 19 2000, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

<p>[redacted]</p> <p>_____ Typed Name of Officer</p> <p>Captain Grade</p> <p>[redacted]</p> <p>_____ Signature</p>	<p>31st Fighter Wing Organization of Officer</p> <p>Assistant Staff Judge Advocate Official Capacity to Administer Oath (See R.C.M. 307(b) must be commissioned officer)</p>
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