

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████		GRADE	AFSN/SSAN ████████████████			
TYPE	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBER SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A93.17 A94.05		INDEX NUMBER A67.50 A66.00		EXHIBITS SUBMITTED TO THE BOARD		
				1	ORDER APPOINTING THE BOARD	
HEARING DATE 05 Nov 2003		CASE NUMBER FD-2003-00366		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		
<small>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</small>						
<p>Case heard at Washington, D.C.</p> <p>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</p>						
INDORSEMENT				DATE: 11/07/2003		
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

FD-2003-00366

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 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 that would justify a change of discharge.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received a General discharge for drug abuse and a pattern of misconduct. He was found guilty by Special Court-Martial for wrongful possession and use of marijuana and for bringing marijuana onto an installation. In addition, he received a Letter of Reprimand, a Letter of Admonishment and a Record of Individual Counseling all for being late for work. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety that would warrant an upgrade. The applicant stated he was told his discharge would automatically be upgraded in six months. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

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

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 16 Jul 03 UP AFI 36-3208, para 5.54 & 5.50 (Drug Abuse and Pattern of Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 24 Aug 82. Enlmt Age: 17 6/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-63, E-40, G-42, M-32. PAFSC: 3A031 - Information Management Apprentice. DAS: 19 Jan 01.

b. Prior Sv: (1) AFRes 14 Mar 00 - 11 Sep 00 (5 months 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Sep 00 for 4 yrs. Svd: 2 Yrs 10 Mo 5 Das, of which AMS is 2 yrs 10 months 2 days (excludes 3 days lost time).

b. Grade Status: AB - 20 May 03 (SCMO#5, 24 Jun 03)
A1C - 15 Jan 02
AMN - 12 Mar 01

c. Time Lost: 11 Feb 03 thru 14 Feb 03 (3 days).

d. Art 15's: None.

e. Additional: LOR, UNDATED - Late for work.
LOA, 6 NOV 01 - Late for work.
RIC, 6 SEP 01 - Late for work.

f. CM: Special Court Martial No.5 - 24 Jun 03

CHARGES I AND II: (Withdrawn pursuant to PTA)

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

Specification 1: Did, on divers occasions, at or near Maxwell AFB, Alabama, between on or about 25 Jan 03 and on or about 10 Feb 03, wrongfully possess some amount of marijuana. Plea: Guilty. Finding: Guilty.

Specification 2: Did, on divers occasions, at or near Maxwell AFB, Alabama, between on or about 25 Jan 03 and on or about 10 Feb 03, wrongfully use marijuana. Plea: Guilty. Finding: Guilty.

Specification 3: Did, at Maxwell AFB, Alabama, on or about 10 Feb

03, wrongfully introduce some amount of marijuana onto a vessel, aircraft, vehicle, or installation used by the armed forces or under the control of the armed forces, to wit: Maxwell AFB, Alabama. Plea: Guilty. Finding: Guilty, except the words "a vessel, aircraft, vehicle, or ", substituting therefor the word "an", and except the words "or under the control of the armed forces". Sentence adjudged by officer members on 6 May 03: Reprimand, reduction to the grade of E-1, forfeiture of \$288.00 pay per month for 6 months, hard labor without confinement for 60 days, and restriction to the limits of Maxwell AFB, AL for 60 days.

- g. Record of SV: 12 Sep 00 - 12 May 02 Maxwell AFB 3 (Initial)
 13 May 02 - 12 May 03 Maxwell AFB 1 (Annual) REF

(Discharged from Maxwell AFB)

h. Awards & Decs: AFTR, NDSM, AFOEA.

i. Stmt of Sv: TMS: (3) Yrs (4) Mos (0) Das
 TAMS: (2) Yrs (10) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 21 Jul 03.
 (Change Discharge to Honorable)

Issue 1: I made some extremely poor decisions in the months of Jan, and Feb of 2003. Ultimately those decisions ended my Military career (sic). I learned so much in my time there, and I am very much excited to learn more. With an honorable discharge I will be able to get the GI bill (sic) that I have looked forward to for so long. I have been told by other veterans in the state of Illinois, that my discharge will automatically turn from General to Honorable after 6 months. I ask that I be able to receive an honorable DD Form 214. Thank You for your consideration.

ATCH

1. DD Form 214.

3SEP03/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR UNIVERSITY (AETC)

26 JUN 03

MEMORANDUM FOR [REDACTED]

FROM: SOC/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse and a Pattern of Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraphs 5.54. and 5.50., respectively. If you are discharged, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. The following instances of drug abuse form the first basis of this action, pursuant to AFI 36-3208, paragraph 5.54:

a. On divers occasions between on or about 25 Jan 03 and on or about 10 Feb 03, at or near Maxwell AFB AL, you wrongfully possessed some amount of marijuana. As a result you received a Special Court-Martial conviction on 6 May 03, which punishment consisted of reduction to the grade of E-1, forfeiture of \$288.00 per month for six months, hard labor with confinement for 60 days and restriction to the limits of Maxwell AFB AL for 60 days.

b. On divers occasions between on or about 25 Jan 03 and on or about 10 Feb 03, at or near Maxwell AFB AL, you wrongfully used marijuana. As a result you received a Special Court-Martial conviction on 6 May 03, which punishment consisted of reduction to the grade of E-1, forfeiture of \$288.00 per month for six months, hard labor with confinement for 60 days and restriction to the limits of Maxwell AFB AL for 60 days.

c. On or about 10 Feb 03, at or near Maxwell AFB AL, you wrongfully introduced some amount of marijuana onto Maxwell AFB AL. As a result you received a Special Court-Martial conviction on 6 May 03, which punishment consisted of reduction to the grade of E-1, forfeiture of \$288.00 per month for six months, hard labor with confinement for 60 days and restriction to the limits of Maxwell AFB AL for 60 days.

3. The following instances of misconduct, in addition to those acts set forth in paragraphs 2a-c, above, form the second basis of this action, pursuant to AFI 3-3208, paragraph 5.50.

a. On or about 4 Dec 01, you failed to go to your appointed place of duty, building 1403, 125 Chennault Circle, Maxwell AFB AL at the appointed time. As a result you received a Letter of Reprimand (LOR) from the SOC/CC, which was placed in an Unfavorable Information File (UIF) on 7 Dec 01.

b. On divers occasions between 21 Oct 01 and 6 Nov 01, you failed to go to your appointed places of duty at the appointed times. As a result you received a Letter of Admonishment (LOA) from the SOC/DM on 6 Nov 01, which was placed in an UIF on 7 Dec 01.

- c. On or about 4 Sep 01 and 6 Sep 01, you failed to go to your appointed places of duty, buildings 1403 and 1412, Chennault Circle, Maxwell AFB AL, at the appointed time of 0600. As a result you received a Record of Individual Counseling (ROIC) from the NCOIC of Infrastructure Support on 6 Sep 01.
4. 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.
5. 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 27 Jun 03 at the Area Defense Counsel at Building 40 on Maxwell AFB at 0800 hours. You may consult civilian counsel at your own expense.
6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1 Jul 03 unless you request and receive an extension for good cause shown. I will send them to the separation authority.
7. 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.
8. You have been scheduled for a medical examination. You must report to the Physical Examinations, 42d Medical Group, Maxwell AFB, Alabama, at 1500 on 26 Jun 03 for the examination.
9. The Privacy Act Statement of 1974 (5 U.S.C. 552a) 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.
10. Execute the attached acknowledgment and return it to me immediately.



Commander, SOC

Attachments:

1. SPCMO 5, 24 Jun 03
2. AF Form 1058, UIF Action, 7 Dec 01
3. LOR, undated
4. LOA, 6 Nov 01
5. AF Form 174, ROIC, 6 Sep 01