

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE [REDACTED]	AFSN/SSAN [REDACTED]			
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 A94.02	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			
HEARING DATE 20 Nov 2003	CASE NUMBER FD-2003-00387		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
			TAPE RECORDING OF PERSONAL APPEARANCE			
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						
+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY						
SIGNATURE OF RECORDER [REDACTED]		[REDACTED]				
INDORSEMENT			DATE: 11/21/2003			
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				

GENERAL: The applicant appeals for upgrade of discharge to honorable, change the reason and authority for the discharge, and change the reenlistment code.

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: The Board grants partial relief. Upgrade of Discharge and change of reason for discharge is approved. Change of reenlistment code is denied.

The Board finds that neither the evidence of record or that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's discharge and reason and authority for discharge inequitable.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 for wrongfully using amphetamines. Additionally, he received two Records of Individual Counseling for missing a scheduled appointment and for being absent from his work area. This case is unique in that the applicant was given a prescription for weight loss drugs from his family doctor in Mexico prior to enlistment. The applicant lost 103 pounds in order to join the Air Force. When he arrived at his first duty station, he began to put on weight again and resumed taking the previously prescribed and filled prescription for the weight loss pills. The Board gave the benefit of doubt to the applicant and believed that he did not know the prescription he was taking contained amphetamines and that he was reasonably relying on a valid prescribed drug from a licensed physician. The Board opined that this was not your typical drug abuse case and cannot see the applicant going through life with a discharge for drug abuse.

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. However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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

[REDACTED]
[REDACTED]

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 6 Nov 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, Change of Reentry Code, Reason and Authority.

2. **BACKGROUND:**

a. DOB: 24 Jun 82. Enlmt Age: 18 2/12. Disch Age: 19 4/12. Educ:HS DIPL. AFQT: N/A. A-59, E-43, G-46, M-30. PAFSC: 2T031 - Traffic Management Apprentice. DAS: 27 Apr 01.

b. Prior Sv: (1) AFRes 14 Sep 00 - 27 Nov 00 (2 Months 14 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as A1C 28 Nov 00 for 4 yrs. Svd: 0 Yrs 11 Mos 10 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None

d. Art 15's: (1) 28 Aug 01, Cannon AFB, NM - Article 112a. You did, from on or about 10 Apr 01 to on or about 19 Jul 01, wrongfully use amphetamines, a schedule 1 controlled substance. Suspended reduction to AMN, forfeiture of \$100.00 pay per month for 2 months, and 15 days extra duty. (No appeal) (No mitigation)

e. Additional: RIC, 2 OCT 01 - Unauthorized absence from work area.
RIC, 3 AUG 01 - Missed a scheduled appointment.

f. CM: None.

g. Record of SV: None.

(Discharged from Cannon AFB)

h. Awards & Decs: AFTR. ^

i. Stmt of Sv: TMS: (1) Yrs (1) Mos (24) Das
TAMS: (0) Yrs (11) Mos (10) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 7 Aug 03.
(Upgrade Discharge to Honorable, Change Reentry Code, Reason and Authority)

FD2003-00387

NO ISSUES SUBMITTED

ATCH
None.

10 Sep 03/cr



FD2003-00387

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 27th FIGHTER WING (ACC)
CANNON AIR FORCE BASE NEW MEXICO

OCT 23 2001

MEMORANDUM FOR [REDACTED]

FROM: 27 LGT/CC

SUBJECT: Notification Memorandum

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

2. My reasons for this action are:

From on or about 10 Apr 01 to on or about 19 Jul 01, you wrongfully used amphetamines, a schedule I controlled substance.

3. This action could result in your separation with a general discharge under honorable conditions. I am recommending that you receive a general discharge under honorable conditions. The commander exercising SPCM authority 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 and will probably be denied enlistment in any component of the armed forces.

4. You have the right to:

- a. Consult legal counsel
- b. Submit statements in your own behalf
- c. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for a medical examination. You must report to the 27th Medical Group on 23 Oct 01 at 1400 hours.

6. Military legal counsel [REDACTED] Building 600, Cannon AFB, (505) 784-2915, has been obtained to assist you. An appointment will be made for you to consult her. You may consult civilian counsel at your own expense.

7. Confer with your counsel and reply, in writing, within 3 duty days, specifying the rights you choose to exercise. I will send any statements made 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 is available for your use at the Cannon AFB Legal Office, (505) 784-2211.

9. Execute the attached acknowledgement and return it to me immediately.



Commander, 27 LGT

Attachment:

Article 15 action, dated 28 Aug 01.