

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE [REDACTED]	AFSN/SSAN [REDACTED]				
TYPE	X	PERSONAL APPEARANCE	RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	No						
	X						
MEMBER SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
[REDACTED]						X	
ISSUES A94.05		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		
HEARING DATE 21 Nov 2003		CASE NUMBER FD-2003-00410		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							
SIGNATURE OF RECORDER [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			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00410

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 an Article 15 for possessing marijuana. 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 states that he was falsely accused and that his military records were outstanding prior to this accusation. The OSI report has statements from witnesses who stated the applicant passed the marijuana cigar around. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case. Applicant stated he was initially charged with the use of marijuana and when the urinalysis came back negative, the charges were dropped and he received new charges. This is correct. The applicant was initially charged with using marijuana and when the results of the urinalysis came back negative, he was only charged with possession. It is also noted that the applicant was a Security Policeman and should have known better than to associate himself with individuals who were smoking marijuana.

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

(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 27 Oct 97 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 16 Mar 74. Enlmt Age: 18 9/12. Disch Age: 23 7/12. Educ:HS DIPL. AFQT: N/A. A-56, E-38, G-53, M-44. PAFSC: 3P051 - Security Apprentice. DAS: 8 Oct 95.

b. Prior Sv: (1) AFRes 12 Jan 93 - 20 Apr 93 (3 Months 9 Days)(Inactive).

(2) Enld as AB 21 Apr 93 for 4 yrs. Ext: 8 Feb 95 for 7 months. Ext: 22 Nov 96 for 11 months. Svd: 3 Yrs 11 Mos, 26 Das, all AMS. EPRs: 5,4,5. AMN - 21 Oct 93. A1C - 21 Aug 94. SRA - 21 Apr 96.

3. **SERVICE UNDER REVIEW:**

a. Reenld as SRA 16 Apr 97 for 4 yrs. Svd: 0 Yrs 6 Mos 12 Das, all AMS.

b. Grade Status: AB - 2 Oct 97 (Article 15, 2 Oct 97)

c. Time Lost: None.

d. Art 15's: (1) 2 Oct 97, Howard AFB, Panama - Article 112a. You did, on or about 20 Jun 97, wrongfully possess some amount of marijuana. You did, on or about 20 Jun 97, wrongfully distribute some amount of marijuana. Article 92. You, who knew of your duties, on or about 20 Jun 97, were derelict in the performance of those duties in that you willfully failed to report the use of some amount of marijuana by two military dependents and ~~██████████~~. ~~██████████~~ a member of the 24th Security Forces Squadron, as it was your duty to do. Reduction to AB, and forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 6 Aug 96 - 5 Aug 97 Howard AFB 4 (Annual)

(Discharged from Charleston AFB)

h. Awards & Decs: AFOUA, AFGCM, AFOLTR, AFLSA, AFTR.

i. Stmt of Sv: TMS: (4) Yrs (9) Mos (16) Das
TAMS: (4) Yrs (6) Mos (7) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 8 Aug 03.
(Change Discharge to Honorable)

Issues: I [REDACTED] feels as though I was falsely accused (sic) of derilection (sic) of duty, intentent (sic) to distribute drugs (marijuna)(sic), and possession of drugs (marijuna) (sic) while serving in the U.S. Air Force. My military records were outstanding prior to this accusation. I had already recieved (sic) an Honorable discharge prior to recieving (sic) my second discharge which was General (Under Honorable Conditions). I request that my records be reviewed, and that my second discharge be upgraded to Honorable as well. Respectfully of course. I was initailly (sic) charged with use of marijuana, and once my urine came back negative those charges were dropped, and I recieved (sic) new charges. Please excuse misspelling.

ATCH

1. Drug Test Results.

6 Oct 03/cr

**DEPARTMENT OF THE AIR FORCE****HEADQUARTERS 24TH WING (ACC)
HOWARD AIR FORCE BASE, PANAMA**

3 October 1997

MEMORANDUM FOR [REDACTED]


FROM: 24 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, and you are discharged, 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 reasons for this action are as follows: you did at or near Veracruz Beach in the Republic of Panama, on or about 20 June 1997, wrongfully possess some amount of marijuana. Also you did, at or near Veracruz Beach in the Republic of Panama, on or about 20 June 1997, wrongfully distribute some amount of marijuana. Additionally, on or about 20 June 1997, you were derelict in the performance of your duties in that you willfully failed to report the use of some amount of marijuana by two military dependents and [REDACTED], a member of the 24th Security Forces Squadron, as it was your duty to do. This misconduct is evidenced by an Article 15 dated 2 October 1997 (Atch 1), an AF Form 1168, Statement by [REDACTED], dated 25 June 1997 (Atch 2), an AF Form 1168 Statement by [REDACTED], dated 25 June 1997 (Atch 3), an AF Form 1168, Statement by [REDACTED], dated 9 September 1997 (Atch 4), and a summary of witness statements incorporated into an AFOSI report of investigation, dated 10 September 1997 (Atch 5).
3. 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.
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 [REDACTED] at Bldg 88, Rodman NS on 6 Oct 1997 at 1400 hours. [REDACTED] may be reached by phone at 283-3610. You may consult civilian counsel at your own expense.

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5. You have the right to submit statements in your own behalf. Any statement you want the separation authority to consider must reach me by 9 Oct 97 (three workdays) 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 Howard AFB Flight Medicine at building 218, on 7 Oct 1997 at 0800 hours for the examination. You must be in military uniform and have your glasses if you wear them.
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 Area Defense Counsel's Office, Bldg 88, Rodman NS, Panama.
9. Execute the attached acknowledgment and return it to me immediately.



Commander

5 Attachments:

1. Article 15, dtd 2 Oct 97
2. AF Form 1168, Statement by [REDACTED], dtd 25 Jun 97
3. AF Form 1168, Statement by [REDACTED], dtd 25 Jun 97
4. AF Form 1168, Statement by [REDACTED], dtd 9 Sep 97
5. AFOSI Rpt of Investigation, dtd 10 Sep 97