

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████		GRADE SRA	AFSN/SSAN ██████████			
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBER SITTING <div style="border: 1px dashed black; height: 100px; width: 90%; margin: 5px;"></div>		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						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			
			COUNSEL'S RELEASE TO THE BOARD			
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
			TAPE RECORDING OF PERSONAL APPEARANCE			
HEARING DATE 13 Jan 2004	CASE NUMBER FD-2003-00436					
<small>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</small>						
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						
INDORSEMENT				DATE 01/12/2004		
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-2003-00436

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.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 for willfully failing to refrain from consuming alcoholic beverages while under the age of 21. However, the reason for the discharge was the applicant's admission to a MSgt that she used cocaine. Applicant states that she was never found guilty of drug abuse and her urinalysis was negative. She also states that the evidence found in her apartment was not hers since she did not live there any longer. The applicant further states that no action was taken against her because evidence could not be linked to her and that an involuntary administrative discharge is not a substitute for disciplinary action and therefore, this involuntary discharge directly violates AFI 36-3208 and her due process rights were completely discarded. There is no law or regulation requiring a commander to take disciplinary action following an investigation that proves drug use. In this case, court-martial or nonjudicial punishment action was not taken because of alleged evidentiary problems. However, the evidence can be used in administrative actions. Applicant asserts that due to the fact that no disciplinary action was taken, the only reasonable conclusion to reach is that the evidence did not support her drug use. To the contrary, the evidence does support her drug use. She made a statement to MSgt F that she did use cocaine. Furthermore, cocaine residue was found in her residence. The evidence is clear by her own admission that she abused cocaine. In regards to the discharge action being used as a substitute for disciplinary action; this issue is unfounded. AFI 36-3208 requires discharge processing in drug abuse cases. This discharge action would have taken place regardless of any disciplinary action taken against the applicant. 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.

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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 21 Mar 03 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 24 Sep 80. Enlmt Age: 17 0/12. Disch Age: 22 5/12. Educ: HS DIPL. AFQT: N/A. A-98, E-56, G-39, M-20. PAFSC: 2S051 - Supply Specialist. DAS: 9 Feb 02.

b. Prior Sv: (1) AFRes 23 Oct 97 - 24 Feb 98 (4 months 2 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 25 Feb 98 for 4 yrs. Svd: 5 Yrs 0 Mo 27 Das, all AMS.

b. Grade Status: SRA - 25 Jun 00

c. Time Lost: None.

d. Art 15's: (1) 17 Aug 99, Randolph AFB, TX - Article 92. You, who knew or should have known of your duties, on 24 Jul 99, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21, as it was your duty to do. Suspended reduction to Airman, forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: Security Forces Report, 18 Dec 02 - Use and possession of cocaine.

f. CM: None.

g. Record of SV: 25 Feb 98 - 15 Jul 99 Randolph AFB 3 (HAF Dir)
16 Jul 99 - 15 Jul 00 Randolph AFB 4 (Annual)
16 Jul 00 - 13 Dec 00 Randolph AFB 5 (CRO)
14 Dec 00 - 13 Dec 01 Kunsan AB 4 (Annual)
14 Dec 01 - 13 Dec 02 Charleston AFB 4 (Annual)

(Discharged from Charleston AFB)

h. Awards & Decs: AFTR, AFLSAR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (5) Yrs (4) Mos (29) Das
TAMS: (5) Yrs (0) Mos (27) Das

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Notification Memorandum, 17 Mar 03.
2. AF Form 3545, Incident Report.
3. SFOSI Report of Investigation.
4. DD Forms 214(2).
5. Enlisted Performance Reports.

11OCT03/ia

Issue be linked

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

X ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

Discharge Notification Memorandum

b. DOCUMENT 2:

Memorandum For 437 AW/JA Transmittal of SFS Reports

c. DOCUMENT 3:

Response to Discharge Under AFI 36-3208 from SrA Wright

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I think my discharge was improper and should be changed to honorable because I was not given equal rights to have my case fairly heard before a decision was made for me to be involuntarily separated from the United States Air Force. I was not found guilty of these allegations to be discharged on 21 March 2003 when my actual last day of total active military service was 24 March 2003. Please consider all issues below and factual information along with supporting documents I have submitted on my behalf.

Issue 1: I was never found guilty of this allegation and was not given the opportunity to respond to these allegations prior to being served a notification of discharge on 17 March 2003. This is stated in the Response to Discharge, Document 3, submitted by SrA [redacted] in paragraph 4.

Issue 2: Unanalysis in Document 2, Memorandum for 437 AW/JA, Transmittal of Security Forces Reports, paragraph 3.1 and 3.2 states my consent to a unanalysis via AF Form 1364, consent for Search and Seizure on 18 December 2002. On 3 February 2003, SFSI received results which were negative.

Issue 3: Evidence findings in the apartment could not be directly linked to me at the time of search of the apartment because I no longer resided there as stated in Capt [redacted] Response to AFI 36-3208 on my behalf in paragraph 3, labeled Document 4.

X I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

20030904

b. SIGNATURE

[Redacted Signature]

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200	Naval Council of Personnel Boards Bldg. 36 - Washington Navy Yard 901 M Street, S.E. Washington, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (WPM-60) U.S. Coast Guard Headquarters Washington, DC 20593-0001

Issue 4: Due to evidence unable to be linked to these allegations, no action was taken against me also stated in paragraph 3 of the Memorandum For 437 LRS/CC from Capt [REDACTED] (Doc-4)

Issue 5: According to para 5.1.2 of AFI 36-3208, Administrative Separation of Airmen, "Involuntary administrative discharge is not a substitute for disciplinary action." Therefore this involuntary discharge on my behalf directly violates AFI 36-3208 and my due process rights were completely discarded.

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 437TH AIRLIFT WING (AMC)

FD2003-00436



MAR 17 2003

MEMORANDUM FOR SRA [REDACTED] 437 LRS

FROM: 437 LRS/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 AAFP 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation for discharge is approved, your service will be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general.

2. My reasons for this action are:

Between on or about 1 Jan 02 and on or about 18 Dec 02, you wrongfully used cocaine. On or about 18 Dec 02, you told MSgt [REDACTED] 437 MSS that you had used cocaine. Additionally, cocaine residue was found in your residence. The evidence of your drug abuse is contained in the Security Forces Report, initiated on 18 Dec 02 (atch 1).

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. An appointment will be made for you to consult the Area Defense Counsel, Building 503, Room 119 upon issuance of this notification. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 20 Mar 03/1530 unless you request and receive an extension by showing good cause. I will forward your statements to the separation authority.

6. If you fail to consult counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.

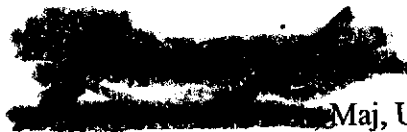
7. You have been scheduled for a separation briefing at Personnel Relocations, Building 503, Room 205 at 1300 on 18 Mar 03. X1563 X1562

8. A medical examination has been scheduled for you. You are directed to report to the 437th Medical Group, Physical Exams at 1020 on 20 Mar 03 for the examination.

9. Your Transition Assistance Briefing is scheduled at 1400 on 18 Mar 03 in the Family Support Center, Building 255, with Mr. Ferguson.

10. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974, as explained in AFI 36-3208. A copy of AFI 36-3208, *Administrative Separation of Airmen*, is available for your use at the 437 LRS Orderly Room.

11. Execute the attached acknowledgment and return it to me immediately.



Maj, USAF

Commander

Attachments:

1. Statement of Suspect/Witness/Complainant, dated 30 Dec 02
2. Airman's receipt of Notification Memorandum