

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AB	AFSN/SSAN ████████████████
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TYPE UOTH	PERSONAL APPEARANCE	X	RECORD REVIEW
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NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%;">YES</td> <td style="width:5%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>	YES	No		X	
YES	No				
	X				

MEMBER SITTING	VOLE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A92.35 A92.37	INDEX NUMBER A66.00	EXHIBITS SUBMITTED TO THE BOARD														
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HEARING DATE 13 Jan 2004	CASE NUMBER FD-2003-00482	
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ADDRESSES OF THE BOARD AND ORGANIZATION HEARD DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISION STATEMENTS

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
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

FD2003-00482

GENERAL: The applicant appeals for upgrade of discharge to general, under honorable conditions.

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 the applicant substantiates an impropriety or inequity that would justify an upgrade of the discharge.

Issues. Applicant was discharged for drug abuse. Member, who was a Security Forces specialist, received two Articles 15, a vacation of suspended punishment, three Letters of Reprimand, and three Letters of Counseling. His misconduct included failure to obey lawful orders, failure to go to his appointed place of duty, sleeping on his post, and marijuana use. The Board noted that member was recommended for an Under Other Than Honorable Conditions (UOTHC) discharge and after consulting his military defense counsel, submitted an unconditional waiver to his right to an administrative board hearing or to submit statements in his own behalf. Applicant now infers discharge was too harsh based on an isolated incident of drug abuse. The Board noted however that applicant had admitted pre-service marijuana use on his Personnel Security Questionnaire and on his AF Form 2030, Drug Abuse Certificate. Furthermore, member did not request he be considered for retention at the time of the discharge, and had he, it would have been his burden of proof to show he met the seven retention criteria. The Board recognized applicant was 24 years of age when the discharge took place, however, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. At the time of his discharge, the Air Force's drug policy was well publicized and members were continually made aware that illegal drug use was not tolerated. Marijuana use is viewed as a very serious failure to meet Air Force standards. The Board noted that because drug abuse is not compatible with Air Force standards, nor those of the Security Forces career field, the characterization of service he received is warranted and appropriate due to that misconduct. The Board could find no inequity or impropriety on which to suggest a basis to upgrade 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

MISSING MEDICAL RECORDS

(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 27 Dec 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 16 Mar 78. Enlmt Age: 19 5/12. Disch Age: 24 9/12. Educ: HS DIPL. AFQT: N/A. A-63, E-60, G-53, M-24. PAFSC: 3P051 - Security Forces Journeyman. DAS: 24 Jul 02.

b. Prior Sv: (1) AFRes 21 Aug 97 - 11 Feb 98 (5 months 22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. (Examiner's Note): There appears to be an enlistment document missing, perhaps an extension. Enlisted as Amn 12 Feb 98 for 4 yrs. Svd: 4 Yrs 10 Mo 16 Das, all AMS.

b. Grade Status: AB - 6 Nov 02 (Article 15, 6 Nov 02)
 A1C - 9 Oct 01 (Vacation of Article 15, 18 Mar 02)
 SrA - 12 Feb 01
 A1C - 12 Dec 98

c. Time Lost: None.

d. Art 15's: (1) 6 Nov 02, Robins AFB, GA - Article 112a. You did, within the continental United States, on divers occasions, between on or about 6 Sep 02, and on or about 2 Oct 02, wrongfully use marijuana, a controlled substance. Reduction to AB, and forfeiture of \$552 pay. (No appeal) (No mitigation)

(2) 18 Mar 02, Vacation, Robins AFB, GA - Article 113. You, on or about 12 Mar 02, were found sleeping upon your post as a sentinel in the KC-135 Mass Parking Area, at or near Robins AFB, GA. Reduction to A1C. (No appeal) (No mitigation)

(3) 9 Oct 01, Robins AFB, GA - Article 113. You, on or about 1 Oct 01, at or near Prince Sultan Air Base, Kingdom of Saudi Arabia, while receiving special pay under 37 U.S.C. Sec 310, being posted as a sentinel at Bravo 4 were found sleeping upon your post. Suspended reduction to A1C. Forfeiture of \$150.00 pay per month for 2 months, and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR, 07 JUN 02 - Failure to obey a lawful order.
 LOC, 16 MAY 02 - Unauthorized reading material while on post.
 LOR, 07 MAY 02 - Late for work.
 LOC, 24 APR 02 - Late for work.
 LOR, 05 Mar 02 - Failure to obey an order.
 LOC, 19 DEC 01 - Failure to obey a lawful order.

f. CM: None.

- g. Record of SV: 12 Feb 98 - 15 Nov 99 Robins AFB 5 (Initial)
 16 Nov 99 - 15 Nov 00 Robins AFB 4 (Annual)
 16 Nov 00 - 15 Nov 01 Robins AFB 3 (Annual)
 16 Nov 01 - 15 Nov 02 Robins AFB 2 (Annual) REF

(Discharged from Robins AFB)

h. Awards & Decs: AFTR, AFLSAR W/1 OLC, NDSM, AFGCM.

- i. Stmt of Sv: TMS: (5) Yrs (4) Mos (7) Das
 TAMS: (4) Yrs (10) Mos (16) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 10 Oct 03.
 (Change Discharge to General)

Issue 1: I feel that my discharge was improper because I have never been involved (sic) with any kind of substance abuse prior to this incident. I have never had an arrest or any kind of involvement (sic) of any sorts (sic) with law enforcement from criminal intentions. I served my country proudly and I am honored to be given the chance to be called a veteran.

ATCH
 None.

12NOV03/ia



DEPARTMENT OF THE AIR FORCE
78TH SECURITY FORCES SQUADRON
ROBINS AIR FORCE BASE, GEORGIA

FD2003-00482

MEMORANDUM FOR AB [REDACTED]

DEC 05 2002

FROM: 78 SFS/CC

SUBJECT: Notification Memorandum - Board Hearing

1. I am recommending your discharge from the United States Air Force for Drug Abuse for Under Other Than Honorable Conditions (UOTHC) according to AFPD 36-32, Military Retirements and Separations, and AFI 36-3208, Administrative Separation of Airmen, under the provision of paragraph 5.54. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On 3 Oct 01, you were found sleeping at your sentinel post Bravo 4 while stationed at Prince Sultan AB, Kingdom of Saudi Arabia. This was a dereliction of duty. For this action you received an Article 15 resulting in reduction in grade from SrA to A1C, a reprimand, forfeitures and an Unfavorable Information File (UIF) was established.

b. On 17 Dec 01, you failed to attend a mandatory firing appointment. For this action you received a Letter of Counseling (LOC) dated 19 Dec 01.

c. On 4 Mar 02, you failed to attend a mandatory firing appointment. For this action you received a Letter of Reprimand (LOR) dated 5 Mar 02.

d. On 18 Mar 02, you were found sleeping while posted as sentinel in the KC-135 parking area while stationed at Robins AFB Georgia. This was a dereliction of duty. For this action you received an Article 15, vacated reduction in grade from SrA to A1C, a reprimand, and forfeitures. Action was added to your existing UIF.

e. On 24 Apr 02, you failed to report to your duty station at the appropriate time. For this action you received a LOC dated 24 Apr 02.

f. On 4 May 02, you failed to report to your duty station at the appropriate time. For this action you received a LOR dated 7 May 02.

g. On 16 May 02, you were found reading unauthorized material while posted as sentinel in a Level 3 resource area. Your actions created a breach of security. For this action you received a LOC dated 16 May 02.

h. On 29 May 02, you failed to obey a lawful order given by your superior to exchange your web belt for a larger web belt. For this action you received an LOR dated 7 Jun 02. This was placed in your existing UIF.

i. On 4 Nov 02, you received an Article 15 for wrongful use of marijuana, a controlled substance. For this action you received a reduction in grade from A1C to AB, and forfeiture. This was placed in your existing UIF. On 4 Nov 02, you responded to said Article 15 (attached).

3. This action could result in your separation with UOTHC. I am recommending that you receive UOTHC. The commander exercising special Court-Martial (SPCM) jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. If you received advance education assistance, special pay, or bonuses, and have not completed the period of active duty you agreed to serve, you may be subject recoupment.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board, subject to your availability.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. 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 Building 700A at 0920 hours on 3 Dec 02. You must be in uniform and on time in order to keep the scheduled appointment

6. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult with Area Defense Counsel, 926-5852, at 1000 hours on 2 Dec 02. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201, Administration of Military Justice. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements 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.

7. 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.
8. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.
9. You have an appointment for an initial briefing at separations with A1C [REDACTED] Bldg 905, 327-7348, at 1500 on 3 Dec 02. Please bring an escort for your assistance.
10. Execute the attached acknowledgement and return it to me immediately.

[REDACTED]
LT COL, USAF
Commander

Attachments:

1. Supporting Documents
 - a. AF Form 3070, 3 Oct 02
 - b. LOC, 19 Dec 01
 - c. LOR, 5 Mar 02
 - d. AF Form 366, 18 Mar 02
 - e. LOC, 24 Apr 02
 - f. LOR, 7 May 02
 - g. LOC, 16 May 02
 - h. LOR, 7 Jun 02
 - i. AF Form 3070, 4 Nov 02
 - j. Member's Response, 4 Nov 02
2. Receipt of Notification Memorandum