

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ██████████	<b>GRADE</b> AMN	<b>AFSN/SSAN</b> ██████████
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<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>	
<b>YES</b>	<b>No</b>		
	<b>X</b>		

<b>MEMBER SITTING</b>	<b>TYPE OF THE BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

<b>ISSUES</b> A94.53	<b>INDEX NUMBER</b> A66.00	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		<b>1</b> ORDER APPOINTING THE BOARD
		<b>2</b> APPLICATION FOR REVIEW OF DISCHARGE
		<b>3</b> LETTER OF NOTIFICATION
		<b>4</b> BRIEF OF PERSONNEL FILE
		COUNSEL'S RELEASE TO THE BOARD
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
		TAPE RECORDING OF PERSONAL APPEARANCE

<b>HEARING DATE</b> 06 Jan 2004	<b>CASE NUMBER</b> FD-2003-00487	
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**ADVICE OF THE BOARD'S DECISIONS TO APPLICANT**

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

*[Handwritten Signature]*

<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD2003-00487

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

**Issues.** Applicant was discharged for drug abuse (marijuana), for which member received an Article 15. He also had two Records of Individual Counseling, one for missing an appointment and the other for disrespect to a noncommissioned officer. Member's drug use was apparently revealed through a positive random urinalysis. Lacking any evidence from the applicant to the contrary, the Board relied on the presumption of regularity and found no wrongful action by the Air Force. At the time of the 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, the characterization of service member received is warranted; the discharge was proper and without basis for upgrade. The Board also noted that member was age 20 to 22 when his offenses occurred, the same age as other airmen who adhere to standards. The Board concluded applicant knew right from wrong and was responsible for his actions, and therefore was held accountable for them. No inequity or impropriety was found in this discharge in the course of the records review.

**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 AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 23 Dec 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 12 May 80. Enlmt Age: 19 3/12. Disch Age: 22 7/12. Educ: HS DIPL. AFQT: N/A. A-56, E-71, G-44, M-32. PAFSC: 2W151 - Aircraft Armament Systems Journeyman. DAS: 28 May 00.

b. Prior Sv: (1) AFRes 30 Aug 99 - 22 Nov 99 (2 Months 24 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 23 Nov 99 for 6 yrs. Svd: 3 Yrs 1 Mo 1 Das, all AMS.

b. Grade Status: AMN - 5 Nov 02 (Article 15, 5 Nov 02)  
 SrA - 14 May 02  
 A1C - 14 Jan 00

c. Time Lost: None.

d. Art 15's: (1) 5 Nov 02, Ellsworth AFB, SD - Article 112a. You did, between on or about 13 Jul 02 and on or about 13 Aug 02, wrongfully use marijuana. Reduction to AMN, and 30 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: RIC, 13 OCT 01 - Missed appointment.  
 RIC, 18 SEP 00 - Disrespectful to an NCO.

f. CM: None.

g. Record of SV: 23 Nov 99 - 22 Jul 01 Ellsworth AFB 4 (Initial)  
 23 Jul 01 - 22 Jul 02 Ellsworth AFB 5 (Annual)

(Discharged from Ellsworth AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (3) Yrs (3) Mos (24) Das  
 TAMS: (3) Yrs (1) Mos (1) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 2 Oct 03.  
 (Change Discharge to Honorable)



FD2003-00487

**DEPARTMENT OF THE AIR FORCE**  
HEADQUARTERS 28<sup>TH</sup> BOMB WING (ACC)  
ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

10 DEC 2002

MEMORANDUM FOR AMN [REDACTED] 28 AMXS

FROM: 28 AMXS/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, 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 reason for this action is:

You did, at or near Rapid City, South Dakota, between on or about 13 Jul 02 and on or about 13 Aug 02, wrongfully use marijuana. For this action, you received nonjudicial punishment under Article 15, UCMJ, on 5 Nov 02. Punishment was reduction to the grade of Airman and 30 days extra duty. This Article 15 established your Unfavorable Information File (UIF).

3. You have other derogatory information in your military record, which is outlined below. This information is not being cited as a basis for discharge, but it may be used for characterization of service. It also may be considered in deciding whether you should be retained or discharged.

a. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 12 Sep 00, treat with contempt SSgt [REDACTED], a noncommissioned officer, then known by you to be a noncommissioned officer, who was then in the execution of his office, by saying to him "Whatever" and "So be it" or words to that effect. For this action, you received an LOC on 18 Sep 00.

b. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 16 Oct 01, without authority, fail to go to your appointed place of duty at the time prescribed. For this action, you received a Letter of Counseling (LOC) on 23 Oct 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 Capt [REDACTED] at 1000 Ellsworth Street, Suite 1700 on 11 Dec 02 at 1430 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 Dec 13 02 at 1500 hours, 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 matters 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 Exams Section of the Base Clinic at 0730 hours on 11 Dec 02 for the examination. This is a mandatory appointment and you must be in uniform. You must report at least 15 minutes in advance to this appointment to complete necessary paperwork. Please have the attached Medical Examination for Separation/Retirement form completed at this time. Return this form to the Separations office.

9. You have been scheduled for a pre-separation briefing. You must report to the Family Support Center on 17 Dec 02 at 1400 hours. This is a mandatory appointment and you must be in uniform. You must report at least 15 minutes in advance to this appointment to complete any necessary paperwork.

10. 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 in your orderly room.

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

  
Major, USAF  
Commander, 28<sup>th</sup> 

Attachments:

1. Supporting documents  
Article 15/UIF - 5 Nov 02
2. Other derogatory data
  - a. LOC - 18 Sep 00
  - b. LOC - 23 Oct 01
3. Airman's receipt of notification memorandum
4. DPMAR FM-21 (Medical Examination for Separation/Retirement)