

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE SSGT	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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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 A92.35 A92.21 A92.37	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 27 Feb 2004	CASE NUMBER FD-2003-00509
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.

[Handwritten Signature]

INDORSEMENT		DATE: 2/27/2004
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

FD2003-00509

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 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.

Issue 1. Applicant was discharged for commission of a serious offense, namely drug abuse, and contends he was punished too severely. During the enlistment under review, member received an Article 15 for wrongful use of marijuana when a probable cause urinalysis came back containing THC above the DoD cut-off of 15 ng/ml. Additionally, applicant's drug abuse was documented in witness statements and an Air Force Office of Special Investigations Report of Investigation. Member was recommended for an Under Other Than Honorable Conditions (UOTHC) discharge and submitted a conditional waiver to his right to an administrative board hearing in exchange for a general (under honorable conditions) service characterization. The Board recognized applicant had over 11 years of at the time of his discharge, but also noted 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, particularly for a noncommissioned officer with the rank and tenure applicant had. The Board noted that because drug abuse is not compatible with Air Force standards, 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.

Issue 2. Applicant contends that he should not be penalized indefinitely due to the adverse nature of his discharge. The DRB recognized the applicant was over 31 years of age when the discharge took place and the negative impact it may have had on him. The Board noted applicant was older than the vast majority of members who properly adhere to the Air Force's standards of conduct, and concluded that the characterization of the applicant's discharge was appropriate due to the serious misconduct. And while the Board commends applicant for his desire to acquire better employment, this is a not a matter of equity or propriety that provides a basis for an upgrade.

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 SSGT) (HGH TSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 28 Mar 89 UP AFR 39-10, paragraph 5-49c (Commissions of a Serious Offense - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 28 May 57. Enlmt Age: 19 11/12. Disch Age: 31 10/12. Educ: HS DIPL. AFQT: N/A. A-58, E-68, G-61, M-87. PAFSC: 45274B - Tactical Aircraft Maintenance Technician. DAS: 18 Aug 85.

b. Prior Sv: (1) AFRes 4 May 77 - 29 Aug 77 (3 months 26 days) (Inactive).

(2) Enlisted USAF as AB 30 Aug 77 for 4 yrs. Extended 25 Aug 81 for 3 months. Svd: 4 yrs 2 months 30 days, all AMS.

(3) Transferred to USAFR 30 Nov 81. Svd: 2 months 27 days (Inactive).

(4) Reenlisted USAF as Sgt 26 Feb 82 for 4 yrs. Extended 28 May 85 for 6 months. Svd: 4 yrs 5 months 30 days, all AMS. AMN - 30 Mar 78. A1C - 28 Aug 78. SrA - 1 Jun 80. Sgt - 1 Jun 81. SSgt - 1 Apr 83. TSgt - 1 Jul 86. APRs: 9,9,9,9,9,8,9.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as TSgt 25 Aug 86 for 4 yrs. Svd: 2 Yrs 7 Mo 3 Das, all AMS.

b. Grade Status: SSgt - 16 Feb 89 (Article 15, 16 Feb 89)

c. Time Lost: None.

d. Art 15's: (1) 16 Feb 89, Hill AFB, UT - Article 112a. You did, in the state of Utah, on or about 28 Dec 88, wrongfully use marijuana. Reduction to SSgt, and 45 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 01 Jul 86 - 10 Mar 87 Hill AFB 9 (CRO)
11 Mar 87 - 10 Mar 88 Hill AFB 9 (Annual)

(Discharged from Hill AFB)

h. Awards & Decs: AFOUA W/3 OLCS, AFGCM W/2 OLCS, AFOSLTR, AFLSAR W/1 OLC, NCOPMER, SAEMR, AFTR, HSM.

i. Stmt of Sv: TMS: (11) Yrs (10) Mos (24) Das
TAMS: (11) Yrs (06) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 24 Oct 03.
(Change Discharge to Honorable)

Issue 1: I spent 11 1/2 years in the Air Force and recieved (sic) good conduct awards and was not the type of person to get in trouble.

I had one bad decision in my carrier (sic) when on one occasion I was talked into smoking a marijuana cigarette. I was screened many times prior to this and it was always negative (sic). I am requesting that the Board grant this request and upgrade my discharge to Honorable. The unit I was in charge of always recieved (sic) the highest awards for our performance.

I am attempting to aquire a job with the state and I feel that a mistake I made 14 yrs ago is having an adverse effect on me to this day. I again ask that you please consider (sic) this upgrade.

ATCH

1. DD Form 214.

5DEC03/ia

FD 2003-00509



DEPARTMENT OF THE AIR FORCE
388TH AIRCRAFT GENERATION SQUADRON (TAC)
HILL AIR FORCE BASE, UTAH 84056-5000

REPLY TO
ATTN OF: CCQ

23 FEB 1989

SUBJECT: Letter of Notification - Board Hearing

TO: SSgt [REDACTED]
388th Aircraft Generation Squadron

1. I am recommending your discharge from the United States Air Force for drug abuse. The authority for this action is AFR 39-10, paragraph 5-49c. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is your drug abuse as evidenced by the following.

a. On or about 28 Dec 88, you wrongfully used marijuana as evidenced by a positive urinalyiss result on 29 Dec 88 and received an Article 15 with UIF on 16 Feb 89. (Atch 1)

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you recieve an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction 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.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative board.
- 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 USAF Hospital Hill, physical exam section, at 0800 on 27 Feb 89.

Readiness is our Profession

6. Military legal counsel, Capt [REDACTED] Bldg 1278, ext 72940, has been obtained to assist you. An appointment has been scheduled for you to consult him on 28 Feb 89, at 0900 hours, Bldg 1278. 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 AFM 111-1. 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.

7. 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.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the 388 AGS Orderly Room.

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

[REDACTED]
[REDACTED] Major, USAF
Commander, Squadron Section

1 Atch

1. Derogatory data contained in
letter of notification