

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 15px;"></div>				GRADE AB		AFSN/SSAN <div style="background-color: black; width: 100px; height: 15px;"></div>		
TYPE UOTH		PERSONAL APPEARANCE				X RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES No								
X								
MEMBER SITTING				VOTE OF THE BOARD				
<div style="border: 1px dashed black; width: 100%; height: 100%;"></div>				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
ISSUES A92.35		INDEX NUMBER A67.70		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 09 Mar 2004		CASE NUMBER FD-2003-00514						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE								
<p>Case heard at Washington, D.C.</p> <p>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</p>								
INDORSEMENT				DATE: 3/9/2004				
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-2003-00514

GENERAL: The applicant appeals for upgrade of discharge to general.

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:

The applicant states that his discharge was inequitable because it was based on one isolated incident in 26 months of service. The records indicate the member tested positive for methamphetamines. The member admitted to using marijuana, cocaine, and LSD during a 12-month period. 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

[REDACTED]
[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 24 Feb 00 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for General Discharge.

2. **BACKGROUND:**

a. DOB: 19 Aug 76. Enlmt Age: 20 11/12. Disch Age: 23 6/12. Educ: HS DIPL. AFQT: N/A. A-82, E-67, G-66, M-28. PAFSC: 1N131 - Imagery Analysis Apprentice. DAS: 7 Mar 99.

b. Prior Sv: (1) AFRes 29 Jul 97 - 16 Dec 97 (4 months 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 17 Dec 97 for 4 yrs. Svd: 2 Yrs 2 Mo 8 Das, all AMS.

b. Grade Status: AB - 23 Nov 99 (Article 15, 23 Nov 99)
A1C - Unknown
AMN - 17 Jun 98

c. Time Lost: None.

d. Art 15's: (1) 23 Nov 99, Offutt AFB, NE - Article 112a. You, did, on or about 26 Aug 99, wrongfully use methamphhtamine, a controlled substance. Reduction to AB. (No appeal) (No mitigation)

e. Additional: LOR, 29 DEC 99 - Failure to report to duty.
Report of Investigation, 19 Oct 99:

04 SEP 99 - Wrongfully used methamphetamine, a controlled substance.

15 DEC 98-07 MAR 99 - Wrongfully used marijuana.

15 DEC 98-07 MAR 99 - Wrongfully used methamphetamine.

01 JUN 98-19 FEB 99 - Wrongfully used marijuana.

01 JUN 98-19 FEB 99 - Wrongfully used Lysergic Acid
Dyethylamide.

01 MAR 98-01 MAY 98 - Wrongfully used marijuana.

01 MAR 98-01 MAY 98 - Wrongfully used cocaine.

f. CM: None.

g. Record of SV: 17 Dec 97 - 30 Sep 99 Offutt AFB 3 (Initial)REF

(Discharged from Offutt AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (6) Mos (27) Das
TAMS: (2) Yrs (2) Mos (8) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 29 Oct 03.
(Change Discharge to General)

Issue 1: Having a Top Secret clearance, completing my Imagery Analysis Apprenticeship course & serving 26 months of active duty. I feel my discharge was improper because it was based off of one incident.

ATCH

None.

17DEC03/ia



DEPARTMENT OF DEFENSE
UNITED STATES STRATEGIC COMMAND

MEMORANDUM FOR AB [REDACTED]

JAN 27 2000

FROM: USSTRATCOM/J009/CC

SUBJECT: Letter of Notification--Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct--Drug Abuse. The authority for my recommendation is AFD 36-32 and AFI 36-3208, paragraph 5.54. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is:

a. On or about 26 August 1999, at or near Offutt Air Force Base, Nebraska, you wrongfully used methamphetamine, a controlled substance. For this incident, you received Nonjudicial Punishment, dated 23 November 1999. Punishment consisted of reduction to the grade of Airman Basic, with a new date of rank of 23 November 1999. (Atch 1-1)

✓ b. On or about 4 September 1999, at or near Offutt Air Force Base, Nebraska, you wrongfully used methamphetamine, a controlled substance. (Atch 1-2)

c. Between on or about 1 March 1998 and on or about 1 May 1998, on divers occasions, at or near Keesler Air Force Base, Mississippi, you wrongfully used marijuana. (Atch 1-2)

d. Between on or about 1 March 1998 and on or about 1 May 1998, on divers occasions, at or near Keesler Air Force Base, Mississippi, you wrongfully used cocaine. (Atch 1-2)

e. Between on or about 1 June 1998 and on or about 19 February 1999, on divers occasions, while assigned to Goodfellow Air Force Base, Texas, you wrongfully used marijuana. (Atch 1-2)

f. Between on or about 1 June 1998 and on or about 19 February 1999, on divers occasions, while assigned to Goodfellow Air Force Base, Texas, you wrongfully used Lysergic Acid Diethylamide. (Atch 1-2)

g. Between on or about 15 December 1998 and on or about 7 March 1999, on divers occasions, at or near Phoenix, Arizona, you wrongfully used marijuana. (Atch 1-2)

h. Between on or about 15 December 1998 and on or about 7 March 1999, on divers occasions, at or near Phoenix, Arizona, you wrongfully used methamphetamine, a controlled substance. (Atch 1-2)

3. This action could result in your separation with an under than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising special court-martial 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 and probably any other branch of the military.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge 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 55th Medical Group, Physical Exams, Room 115, Building 527 (Fairchild Hall), at 1400 on 27 JAN 00 for the examination. Please pick up your medical records 24 hrs prior to your appointment.

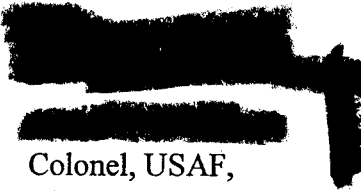
6. Military legal counsel is available to assist you. I have made an appointment for you to consult Captain [REDACTED] Area Defense Counsel, Bldg 323C, RM 302, Phone 4-3939, at 1030 hrs on 27 JAN 00. Instead of the appointed military counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. 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 to assist you.

7. Confer with your counsel and reply, in writing, within seven workdays (NLT 7 Feb 2000), 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 of 1974. A copy of AFI 36-3208 is available for your use in the unit orderly room.

9. If you request a board hearing and fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

10. Execute the acknowledgment provided and return it to me immediately.

A large, solid black rectangular redaction box covering the signature of the Air Force Element Section Commander.

Colonel, USAF,
Air Force Element Section Commander

Attachment

Atch 1-1. Nonjudicial Punishment dtd 23 Nov 99

Atch 1-2. Report of Investigation, dtd 19 Oct 99