

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 15px; margin-top: 5px;"></div>		GRADE SSGT	AFSN/SSAN <div style="background-color: black; width: 100px; height: 15px; margin-top: 5px;"></div>																																			
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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.																																						
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-2004-00141
<p>GENERAL: The applicant appeals for upgrade of discharge to honorable.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge is denied.</p> <p>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.</p> <p>ISSUES: Applicant was recommended for discharge based on both drug abuse and misconduct; the records indicated the applicant received five Letters of Counseling (LOCs) for being late to work, and a commander-directed urinalysis was returned positive for the presence of cocaine. Member exercised his right to an administrative discharge board and the board found that member was late to work five times and did wrongfully use cocaine. The board however decided member should be discharged only on the basis of the drug abuse but not for misconduct. Nevertheless, they further recommended his service be characterized as general, under honorable conditions. In this instance, the urinalysis could result in no less than an honorable discharge because it was the product of a commander-directed test. However, a general discharge could be approved if based on other derogatory data that occurred during the current enlistment, which the five LOCs constituted. But administrative requirements in place at the time of applicant's discharge required the decision authority to clearly articulate in the instrument directing the discharge that the characterization of service was based on this specific derogatory information in the current enlistment and not on the commander-directed urinalysis results. This was not done. In denying the applicant's appeal, the Board concluded that, based on the available evidence, this was a harmless error. The Board further concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was therefore appropriate.</p> <p>In summary, the Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p>	

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]
(Former SSGT) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Norton AFB, CA on 5 Jun 91 UP AFR 39-10, 5-47b (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Oct 63. Enlmt Age: 18 1/12. Disch Age: 27 8/12. Educ: HS DIPL. AFQT: N/A. A-37, E-24, G-44, M-40. PAFSC: 45873 - Fabrication and Parachute Specialist. DAS: 30 Jan 86.

b. Prior Sv: (1) AFRes 17 Nov 81 - 13 Jun 82 (6 months 28 days) (Inactive).

(2) Enlisted as AB 14 Jun 82 for 4 yrs. Extended 11 Sep 85 for 7 months. Reenlisted as SrA 4 Dec 85 for 4 yrs. Svd: 7 yrs 5 months 16 days, all AMS. AMN - 14 Dec 82. A1C - 14 Jun 83. SrA-(APR Indicates): 14 Jun 85-21 Dec 85. Sgt-(APR Indicates): 22 Dec 85-11 Dec 86. SSgt - 1 Dec 87. APRs: 9,9,9,9,9,9,9.

ART 15: 15 Jun 88, Norton AFB, CA - Article 111. You did, on or about 4 Jun 88, on G Street near the Base Gym, operate a vehicle, to wit: a passenger car while drunk. Article 134. Further investigation has shown that you were, on or about 4 Jun 88, drunk and disorderly. Suspended reduction to Sgt. Forfeiture of \$250.00 pay per month for two months. (No appeal) (No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 1 Dec 89 for 4 yrs. Svd: 1 Yrs 6 Mo 4 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: 18 Mar 91-28 Jan 91, Command directed urinalysis tested positive for cocaine.

LOC, 10 JAN 91 - Late for duty.

LOC, 18 OCT 90 - Late for duty.

LOC, 21 JUN 90 - Late for duty.

LOC, 16 MAY 90 - Late for duty.

LOC, 03 APR 90 - Late for duty.

f. CM: None.

g. Record of SV: 22 Dec 86 - 21 Dec 87 Norton AFB 9 (Annual)
22 Dec 87 - 21 Dec 88 Norton AFB 9 (Annual)
22 Dec 88 - 21 Dec 89 Norton AFB 9 (Annual)
22 Dec 89 - 21 Dec 90 Norton AFB 4 (Annual)

h. Awards & Decs: AFTR, AFGCM W/1 DEV, NCOPMER, NDSM, AFLSAR W/1 DEV,
AFOUA W/1 DEV.

i. Stmt of Sv: TMS: (9) Yrs (6) Mos (20) Das
TAMS: (8) Yrs (11) Mos (23) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 11 Mar 04.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
None.

18MAY04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 63D MILITARY AIRLIFT WING (MAC)
NORTON AIR FORCE BASE CA 92409

FD 2004-00141

REPLY TO
ATTN OF: 63 EMS

14 MAR 1991

SUBJECT: Letter of Notification (Board Hearing)

TO: [REDACTED]

1. I am recommending your discharge from the United States Air Force for Drug Abuse, according to AFR 39-10, under the provisions of paragraph 5-50.1 and for a pattern of misconduct under AFR 39-10 paragraph 5-47b. Copies of the documents to be forwarded to the separation authority, to support this recommendation are attached.
2. My reasons for this discharge action are as follows:
 - a. On 3 Apr 90, you were late for work, for which you received a Letter of Counseling.
 - b. On 16 May 90, you were late for work for which you received another Letter of Counseling.
 - c. On 21 Jun 90, you failed to report to work on-time, for which you received a Letter of Counseling.
 - d. On 18 Oct 90, you failed to report to duty on-time for which you received a Letter of Counseling.
 - e. On 10 Jan 91, you were late for duty for which you received a Letter of Counseling.
 - f. You wrongfully used cocaine between 18 Jan 91 and 28 Jan 91, as evidenced by a positive command-directed drug urinalysis test.
3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive a general discharge. The Commander exercising SPCM jurisdiction or 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 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 on 18 MARCH 1991 at 0700 HOURS. Do not drink alcohol 72 hours prior to your exam.

6. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel on 15 MARCH 1991 at 0700 HOURS. 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 AFR 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 seven 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 orderly room.

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



3 Atchs

- 1A. Supporting Documents for the Reasons for Discharge
- 1B. Other Derogatory Data - Letters of Counseling
- 2. Airman's Acknowledgment