

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]			
TYPE UOTH	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBER SITTING		VOICE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A94.53 A92.35		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 20 Aug 2004		CASE NUMBER FD-2004-00193				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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> <div style="border: 1px dashed black; height: 100px; width: 100%; margin-top: 20px;"></div>						
INDORSEMENT		DATE: 8/24/2004				
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-2004-00193

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change his reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are 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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh, stating it was based on one incident. The records indicated the applicant received two Articles 15, a Letter of Reprimand, two Letters of Counseling, and had an Unfavorable Information File for misconduct. His infractions included dereliction of duty, failure to go, driving while intoxicated, and three separate drug-related incidents. On one occasion he was in possession of marijuana. On another, a command-directed urinalysis was positive for the presence of both marijuana and cocaine. And yet another random urinalysis was also positive for marijuana. The DRB opined that through the unit's administrative actions, the applicant had ample opportunities to change his negative behavior and was unwilling or unable to do so. The Board noted the Air Force's drug policy was well publicized and members were continually made aware that illegal drug use was not tolerated. Marijuana and cocaine use are viewed as a very serious failures to meet Air Force standards and thus the characterization of service member 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.

Issues 2 and 3. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were its basis.

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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr Elmendorf AFB, AK on 9 May 97. UP AFI 36-3208, para 5.49 & 5.54 (Misconduct - Minor Disciplinary Infractions & Drug Abuse). Appeals for Honorable Discharge, to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 22 Jul 71. Enlmt Age: 18 9/12. Disch Age: 25 9/12. Educ: HS DIPL. AFQT: N/A. A-72, E-63, G-86, M-74. PAFSC: 3S251 - Education & Training Journeyman. DAS: 28 Jun 95.

b. Prior Sv: (1) AFRes 11 May 90 - 29 Nov 90 (6 months 19 days) (Inactive).

(2) Enlisted as AB 30 Nov 90 for 4 yrs. Extended 9 Feb 94 for 23 months. Svd: 3 yrs 7 months 18 days, all AMS. AMN - Unknown. A1C-(EPR Indicates): 30 Nov 90-29 Jul 92. SrA - 30 Nov 93. EPRs: 5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 19 Jul 94 for 4 yrs. Svd: 2 Yrs 9 Mo 20 Das, all AMS.

b. Grade Status: AB - 19 Feb 97 (Article 15, 19 Feb 97)
A1C - 3 Jan 97 (Article 15, 3 Jan 97).

c. Time Lost: None.

d. Art 15's: (1) 19 Feb 97, Elmendorf AFB, AK - Article 112a. You, did, on or about 10 Jan 97, wrongfully use marijuana. Reduction to AB, and forfeiture of \$450.00 pay per month for two months. (No appeal) (No mitigation)

(2) 3 Jan 97, Elmendorf AFB, AK - Article 111. You, did, on or about 21 Dec 96, near the Government Hill Gate operate a vehicle, to wit: a truck, while drunk. Reduction to A1C, forfeiture of \$50.00 pay per month for 2 months, and 45 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 24 DEC 96 - Possession of marijuana.
LOC, 05 AUG 96 - Late for duty.
LOC, 17 JUL 96 - Dereliction of duty.

f. CM: None.

g. Record of SV: 30 Jul 93 - 22 Oct 94 Grand Forks AFB 5 (Annual)

23 Oct 94 - 27 Apr 95	Grand Forks AFB	5	(CRO)
28 Apr 95 - 27 Apr 96	Elmendorf AFB	5	(Annual)
28 Apr 96 - 07 May 97	Elmendorf AFB	1	(Cmdr Dir)REF

h. Awards & Decs: AFAM, AFLSAR, AFTR, AFGCM W/1 DEV, NDSM, SAEMR, NCOPMER, AFOUA W/2 DEVS, AFOSLTR.

i. Stmt of Sv: TMS: (6) Yrs (11) Mos (29) Das
TAMS: (6) Yrs (5) Mos (10) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 May 04.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge.)

Issue 1: My discharge was inequitable because it was based on one incident during 1996 Xmas holiday. Resulting in unquestionable & prejudice discharge with no rehabilitation (sic). Along with the opportunity to remain or reenlist in the Air Force. With prior impeccable military career.

Issue 2: Reflect on my DD 214, Item 13, 14, & 18. With a key emphasis on receiving two times the Ai (sic) Force Good Conduct Medal. Completion of my first full term of enlistment. Always rating the highest for Enlisted Performance Reports. Completion of two Community College of the Air Force degrees in both Journeyman, Air Force Speciality (sic) codes. (1) Security Administration (2) Education & Instructional Technology. Not able to retrieve or make copies!

Issue 3: Please take this all into consideration with the full view of a x-Security Policeman. Going back to work for people prior serving under at Grand Forks (sic) AFB. In reference [REDACTED], & a 1st Lietant (sic) from the Emergency Service Team at Grand Forks who gave their support based on my excellent work ethic & over all dedicated subordinate I was. The prejudice & redicule I recieved (sic) from other superiors due to my position, mother coming to my squadron causing a bad perception before we established DNA paternity.

ATCH
None.

30JUN04/ia

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD 2004-00193

MEMORANDUM FOR 3 SPS/CCQ [REDACTED]

MAR 27 1997

FROM: 3 SPS/CC

SUBJECT: Notification Memorandum--Board Hearing

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions and drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, under the provisions of paragraphs 5.49 and 5.54, respectively. 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 or about 16 Jul 96, you failed to track delays in the position upgrade and certification process on [REDACTED] as evidenced by a Letter of Counseling (LOC), dated 17 Jul 96.
 - b. On or about 5 Aug 96, you failed to go at the time prescribed to your appointed place of duty, as evidenced by an LOC, dated 5 Aug 96.
 - c. Between on or about 1 Nov 96 to on or about 21 Dec 96, you wrongfully used marijuana (THC) and cocaine, as evidenced by a Memorandum for Record, dated 5 Feb 97.
 - d. Between on or about 10 Dec 96 and 10 Jan 97, you wrongfully used marijuana (THC), as evidenced by an Article 15, dated 20 Feb 97, and a UIF entry, undated.
 - e. On or about 21 Dec 96, you allegedly had marijuana in your possession, as evidenced by a Letter of Reprimand (LOR), dated 24 Dec 96.
 - f. On or about 21 Dec 96, you wrongfully operated a vehicle while intoxicated, as evidenced by an Article 15, dated 16 Jan 97, and an Unfavorable Information File (UIF) entry, undated.
3. This action could result in your separation with an Under Other Than Honorable Conditions Discharge. I am recommending you receive 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 and will probably be denied enlistment in any component of the

armed forces and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 the 3rd Aerospace Medicine Squadron, Building 24-850 at 0715 on 31 MAR 97 with your medical records. You are to fast (drink water only) for 14 hours, refrain from alcohol 72 hours, and refrain from the use of tobacco products 6 hours prior to examination, bring eyeglasses (and contact solution if using contacts) if applicable. You must be in uniform for the examination.

6. Military legal counsel has been obtained to assist you. An appointment has been for you to consult [REDACTED] at Bldg 6-920, rm 330 on 28 MAR 97 at 1030. 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. 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. You have been scheduled for a Transition Assistance Program briefing. You must report to the Family Support Center at [REDACTED] 135 on 31 MAR. You have also been scheduled for a TMO Household Goods Shipment preprocessing briefing. You must report to bldg 2-900 (People Center), rm 247 at 1400 on 28 MAR.

9. 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 your Squadron Orderly Room.
10. 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.
11. The discharge board or the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).
12. Execute the attached acknowledgment and return it to me immediately.


Commander

USAF

Attachments:

1. LOC, 17 Jul 96
2. LOC, 5 Aug 96
3. Memo, 5 Feb 97
4. Article 15, 20 Feb 97
5. LOR, 24 Dec 96
6. Article 15, 16 Jan 97