

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ██████████	<b>GRADE</b> AB	<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>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

<b>ISSUES</b> A92.35 A92.21 A93.01	<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> 15 Sep 2004	<b>CASE NUMBER</b> FD-2004-00211	
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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.

<b>INDORSEMENT</b>	<b>DATE: 9/17/2004</b>
<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

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2004-00211**

**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.

Issue 1. Applicant was discharged for drug abuse. Member received an Article 15 for wrongful use of marijuana when a unit inspection urinalysis came back containing THC well above the DoD cut-off of 15 ng/ml, specifically 44 ng/ml. Applicant feels a general discharge was too harsh for this offense, which he described as "isolated." Although not the basis for discharge, the Board noted the record documented other incidents of misconduct including being late to work on multiple occasions, having unauthorized knives in the dormitory, and disrespect to a noncommissioned officer. As a result of these incidents, member had received three Letters of Counseling and three Letters of Reprimand. Although at the time of the discharge, member requested a retention waiver, it was not granted in view of this history of other derogatory information. Additionally, 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 use is viewed as a very serious failure 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.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 3 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well, has had a good job, and is now pursuing further education. However, this does not provide a basis of inequity or impropriety in his discharge, and none was suggested or found in the course of the record review. The Board concluded the applicant's misconduct appropriately characterized his term of service.

**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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Davis-Monthan AFB, AZ on 2 Dec 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 9 Jul 80. Enlmt Age: 17 0/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-67, E-70, G-57, M-63. PAFSC: 3P051 - Security Forces. DAS: 13 Dec 98.

b. Prior Sv: (1) AFRes 22 Jul 97 - 23 Jun 98 (11 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 24 Jun 98 for 4 yrs. Ext 24 Sep 02 for 23 months. Svd: 4 Yrs 5 Mo 9 Das, all AMS.

b. Grade Status: AB - 19 Nov 02 (Article 15, 19 Nov 02)  
 SrA - 24 Oct 00

c. Time Lost: None.

d. Art 15's: (1) 19 Nov 02, Davis-Monthan AFB, AZ - Article 112a. You did, in or near the Continental United States, between on or about 10 Sep 02 and on or about 10 Oct 02, wrongfully use marijuana. Reduction to AB. (No appeal) (No mitigation)

e. Additional: LOR, 20 MAY 02 - Late for work.  
 LOR, 18 MAY 02 - Failure to conform to AFI 36-2241 standards and disrespect to an NCO.  
 LOC, 18 MAY 02 - Late for work.  
 LOR, 03 MAY 01 - Unauthorized knives in dormitory room.  
 LOC, 10 JAN 00 - Late for work.  
 LOC, 22 DEC 99 - Late for work.

f. CM: None.

g. Record of SV: 24 Jun 98 - 23 Feb 00 Davis-Monthan AFB 5 (Initial)  
 24 Feb 00 - 23 Feb 01 Davis-Monthan AFB 4 (Annual)

h. Awards & Decs: AFAM, AFTR, NDSM, AFLSAR W/1 OLC, HSM.

i. Stmt of Sv: TMS: (5) Yrs (4) Mos (11) Das

TAMS: (4) Yrs (5) Mos (9) Das

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4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 31 May 04.  
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority  
for Discharge)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.

20JUL04/ia



DEPARTMENT OF THE AIR FORCE  
355TH SECURITY FORCES SQUADRON (ACC)  
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

FD2004-00211

21 NOV 02

MEMORANDUM FOR [REDACTED]

FROM: [REDACTED]

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically 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 may be characterized as honorable or under honorable conditions (general). I am recommending your service be characterized as general.
2. My reason for this action is that in or near the continental United States, between on or about 10 Sep 02 and on or about 10 Oct 02, you wrongfully used marijuana. As a result, you received punishment under Article 15 of the UCMJ and an unfavorable Information File (UIF) was established (Tab 1).
3. In recommending your discharge, I am also considering the following (Tab 6):
  - a. On or about 22 Dec 99, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a Letter of Counseling (LOC).
  - b. On or about 10 Jan 00, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a LOC.
  - c. On or about 2 May 01, you failed to obey a regulation, specifically, Base Supplement 1 to AFI 31-209, regarding maintaining illegal knives in your dormitory room. As a result, you received a Letter of Reprimand (LOR).
  - d. On or about 18 May 02, you failed to go at the time prescribed to your appointed place of duty, specifically, building 4413, the Armory. As a result, you received a LOC.
  - e. On or about 18 May 02, you were insubordinate towards a noncommissioned officer. As a result, you received a LOR.
  - f. On or about 20 May 02, you failed to go at the time prescribed, to your appointed place of duty, specifically, building 4413, the Armory. As a result, you received a LOR.

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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 will probably be denied enlistment in any component of the armed forces. Additionally, and any special pay, bonus, or education assistance may be subject to recoupment.
  
5. You have the right to consult counsel. Military legal counsel, [REDACTED] AFLSA/ADC, [REDACTED] has been obtained to assist you. An appointment has been scheduled for you to consult her on 22 NOV 02 at 0830 hours in Bldg 3510. 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 26 NOV 02 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 statements 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 your designated panel of the Aeromedical Facility, Bldg 400, at 1400 on 2 NOV for the examination.  
0830 22 NOV
  
9. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, Bldg 3200, Rm 120, at 0900 on 25 NOV 02 for the outprocessing briefing.
  
10. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. You may contact the Area Defense Counsel to obtain a copy of AFI 36-3208.
  
11. Execute the attached acknowledgment and return it to me immediately.

FOR THE COMMANDER

[REDACTED SIGNATURE]

## Attachments:

1. Supporting Documents: AF Form 3070, Record of Nonjudicial Punishment Proceedings, 19 Nov 02 (3 pages), Response (1 page), and Evidence, (4 pages).
2. Airman's Receipt of Notification Memorandum