

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████		GRADE AB	AFSN/SSAN ██████████
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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	UOHC	OTHER	DENY
[Empty Box]					X
					X
					X
					X
					X

ISSUES A92.35 A92.21 A94.05	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 01 Dec 2004	CASE NUMBER FD-2004-00266
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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]

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
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD-2004-00266

**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 drug abuse; he had received an Article 15 for wrongful use of marijuana. Applicant feels a general discharge was too harsh for this offense and claims he only used the substance one time while on leave. He notes it was "a terrible mistake," and that he cooperated with the Air Force Office of Special Investigations during their investigation. The records disclosed that at the time of the discharge, member waived his right to consult counsel, waived his right to submit statements in his own behalf, and failed to argue that he met the seven criteria for retention. 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. Applicant contends that his discharge constituted punishing him twice for the same incident. It should be noted that administrative separation is an action that severs the military status of an individual and characterizes his service, but is not the same as punishment rendered by a judicial or non-judicial punishment proceeding. The discharge regulations clearly gave his chain of command authority to recommend administratively discharging him based on unsuitability for further military service as a result of his serious misconduct. Facts and circumstances are different in each action and must be judged on a case-by-case basis. In doing so, a commander must consider the seriousness of the misconduct and how a member's retention might affect good order, discipline, and morale, not just the member's past record of service or rehabilitative potential. The regulation provides for circumstances wherein a single incident of misconduct may provide the basis for characterizing service. Commission of a serious offense clearly established applicant's unsuitability for further Air Force service. All required procedures were properly followed in the applicant's case.

Issue 3 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, this does not provide a basis of inequity or impropriety on which to justify an upgrade, nor was one found in the course of the records 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 Edwards AFB, CA on 4 Jun 03 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: 30 Jun 80. Enlmt Age: 18 8/12. Disch Age: 22 11/12. Educ: HS DIPL. AFQT: N/A. A-39, E-53, G-46, M-38. PAFSC: 2W151 - Aircraft Armament Systems Journeyman. DAS: 12 Sep 02.

b. Prior Sv: (1) AFRes 18 Mar 99 - 30 Mar 99 (13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 31 Mar 99 for 6 yrs. Svd: 4 Yrs 2 Mo 5 Das, all AMS.

b. Grade Status: AB - 5 May 03 (Article 15, 5 May 03)  
 SrA - 14 Mar 01  
 A1C - 14 May 99

c. Time Lost: None.

d. Art 15's: (1) 5 May 03, Edwards AFB, CA - Article 107. You, did, on or about 4 Mar 03, with intent to deceive, sign an official statement, to wit: AF Form 1168, Statement of Suspect, Witness and Complainant, indicating that you had never smoked marijuana in your Air Force career or words to that effect, which statement was false in that you smoked marijuana between on or about about 1 Apr 02 and on or about 30 Apr 02, and was then known by you to be so false. Article 112a. You, did, at or near the State of Hawaii, between on or about 1 Apr 02 and on or about 30 Apr 02, wrongfully use marijuana, a controlled substance. Reduction to AB, 30 days extra duty and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 31 Mar 99 - 15 Oct 00 Eielson AFB 5 (HAF Dir)  
 16 Oct 00 - 15 Oct 01 Eielson AFB 5 (Annual)  
 16 Oct 01 - 24 Aug 02 Eielson AFB 5 (CRO)

h. Awards & Decs: AFAM, AFTR, AFEM, NDSM, AFOSLTR, AFLSAR, MBOB.

i. Stmt of Sv: TMS: (4) Yrs (2) Mos (18) Das  
TAMS: (4) Yrs (2) Mos (5) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 7 Jul 04.  
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority  
for Discharge)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. DD Form 214.

1SEP04/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

This letter is to upgrade my discharge from general to an honorable discharge. When I was enlisted in the Air force I know I made a commitment to my country and pleaded under oath to my country. In April 2002 I went to Hawaii with a couple of my friends, when I was there I made a terrible mistake in smoking a marijuana joint, I was in a state of unconsciousness and did not know what I was doing at the time. The next day I was told by my friends what I had done and I felt horrible and disgusted in myself. I knew at that time I had dishonored the United States Air Force by doing what I did. When I got investigated by Office of Special Investigations (OSI) Agents I told them exactly what happened and that I felt disgusted in myself and that hopefully the Air Force will give me a second chance. When my commander found out of this he was outraged and dishonored me as being an airman under him. He gave me an Article 15 and reduced my rank to E-1 (AB), and then he proceeded with a General Discharge to get me out of the Air force, with only 12 months left on my contract. I believe that a General Discharge by reason of misconduct was unjust. It was like being punished twice since I was already reduced to E-1. I was willing to stay in and make it a career and not commit that offense again. This letter was intended to upgrade my discharge and get back into the military. I have never touched any type of illegal drugs except for the one incident that happen when I was on leave. I have accepted my responsibility and better myself as a civilian, with working for one of the biggest military contractors Lockheed Martin on the F-16 Flight Test program at Edwards AFB, CA. In conjunction with working with Lockheed Martin I am also finishing my Electrical Engineering Degree. I just want to apologize to anybody that I have hurt and finish what I had started in the military and hopefully get a second chance for what I did in the past. I have learned from my mistake and I want to leave it behind me. Thank You

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that any individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

2004/07/07

b. SIGNATURE

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See <a href="http://arba.army.pentagon.mil">http://arba.army.pentagon.mil</a> )	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 412<sup>TH</sup> TEST WING (AFMC)  
EDWARDS AIR FORCE BASE, CALIFORNIA

FD2004-00266

19 MAY 03

MEMORANDUM FOR AB [REDACTED] 412 AMXS

FROM: 412 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse. The authority for this action is AFPD 36-32, Military Retirements and Separations, and AFI 36-3208, Administrative Separation of Airman, paragraph 5.54. If my recommendation is approved, your discharge can be characterized as either Honorable or Under Honorable Conditions (General). I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reasons for this action are:

a. Between on or about 1 Apr 02 and on or about 30 Apr 02, you wrongfully used marijuana, a controlled substance, as evidenced by AF Form 3070 (Article 15) dated 5 May 03 (Atch 1.1).

b. On or about 4 Mar 03, with the intent to deceive, you signed an official statement, to wit: AF Form 1168, Statement of Suspect, Witness and Complainant, indicating that you had never smoked marijuana in your Air Force career or words to that effect, which statement was false in that you smoked marijuana between on or about 1 Apr 02 and on or about 30 Apr 02, and was then known by you to be so false, as evidenced by AF Form 3070 (Article 15) dated 5 May 03 (Atch 1.1).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial convening authority (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.

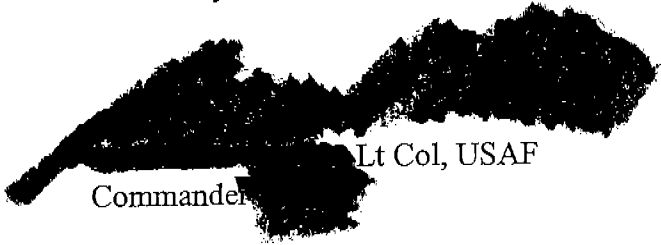
4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult ADC at Bldg 2670 on 19 MAY 03 at 1000. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 22 MAY 03 (3 work days) unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. 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.

7. You have been scheduled for a medical examination. You must report to the Physical Examination Section, Flight Surgeon's Office, Bldg 3925, at ~~0730~~ on 19 MAY 2003 for the examination.  
1315

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 Orderly Room.

  
Lt Col, USAF  
Commander

Attachments:

- 1.1. AF Form 3070 (Article 15) dated 5 May 03
- 2. Airman's Receipt of Notification/Recoupment Memorandum
- 3. Airman's Statement
- 4. EPRs