

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████		GRADE A1C	AFSN/SSAN ████████████████				
TYPE UOTH	PERSONAL APPEARANCE	X	RECORD REVIEW				
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL					
YES	No						
	X						
MEMBER SITTING		VOTE OF THE BOARD					
		HON	GEN	UOTHC	OTHER	DENY	
						X	
						X	
						X	
						X	
						X	
ISSUES A67.10	INDEX NUMBER A95.00	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 05 Oct 2004	CASE NUMBER FD-2004-00280						
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: 10/5/2004	
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

FD-2004-00280

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 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. 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 submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received an Under Other Than Honorable Conditions (UOTHC) discharge for misconduct, specifically for the possession with intent to distribute an illegal substance (marijuana). The majority of the discharge documents are missing from this case file. A concerted search was made at Barksdale AFB, where the applicant was discharged, at AF/JA, and with the member. The only documents available are the AF Form 286A, Notification of Personnel Reliability Program Permanent Decertification Action which gives the reason for PRP decertification as: "for possessing with intent to distribute an illegal substance (marijuana)", an AF Form 2098, Duty Status Change which states the applicant was incarcerated in the Bossier Parish jail and charged with possession of a controlled substance with bail set at \$20,000, and a DD Form 214 which shows a characterization of service as UOTHC for misconduct. Lacking any documentation to support any allegation of impropriety or inequity, the board must rely on the presumption of regularity which means that when the government, or in this case the military, takes an action, it is deemed to be a good and proper action. The burden of proof lies with the applicant to convince the members of the Board that their discharge should be something other than what it is, and in doing so, overcome the presumption of regularity.

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 A1C) (HGH A1C)

MISSING DISCHARGE DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr Barksdale AFB, LA on 27 Dec 99 UP AFI 36-3208 (Misconduct). Appeals for General Discharge.

2. **BACKGROUND:**

a. DOB: 20 Aug 72. Enlmt Age: 25 3/12. Disch Age: 27 4/12. Educ: HS DIPL. AFQT: N/A. A-76, E-72, G-52, M-51. PAFSC: 2A431 - Aircraft Guidance and Control Apprentice. DAS: Unknown.

b. Prior Sv: (1) AFRes 24 Nov 97 - 3 Mar 98 (3 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 4 Mar 98 for 4 yrs. Svd: 1 Yrs 9 Mo 24 Das, of which AMS is 1 yr 8 months 13 days (excludes 1 month 11 days lost time).

b. Grade Status: A1C - 4 Jan 99

c. Time Lost: 1 Oct 99 thru 12 Nov 99 (1 month 11 days).

d. Art 15's: Unknown.

e. Additional: AF FORM 286A, 24 NOV 99 - Irresponsibility in the possession with intent to distribute an illegal substance (Marajuana).

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (11) Mos (23) Das
TAMS: (1) Yrs (8) Mos (13) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Jul 04.
(Change Discharge to General)

NO ISSUES SUBMITTED.

FD2004-00280

ATCH
None.

26AUG04/ia