

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ██████████	<b>GRADE</b> A1C	<b>AFSN/SSAN</b> ██████████
--	---------------------	--------------------------------

<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>	
<b>COUNSEL</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>		
YES				No
				<b>X</b>

<b>MEMBER SITTING</b>	<b>VOTE OF THE BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

<b>ISSUES</b> A94.05	<b>INDEX NUMBER</b> A67.10	<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> 10 Dec 2004	<b>CASE NUMBER</b> FD-2004-00304			

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

**INDORSEMENT**

**DATE: 12/10/2004**

**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-2004-00304**

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

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.

**ISSUE:** Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, and five Letters of Reprimand for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. 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.

**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 A1C) (HGH SRA)

SOME DISCHARGE DOCUMENTS MISSING

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Luke AFB, AZ on 6 Apr 04 UP AFI 36-3208, para 5.54 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 16 Mar 76. Enlmt Age: 20 1/12. Disch Age: 28 0/12. Educ: HS DIPL. AFQT: N/A. A-57, E-49, G-39, M-32. PAFSC: 3E151 - Heating, Ventilation, Air Conditioning and Refrigeration Journeyman. DAS: 10 Mar 03.

b. Prior Sv: (1) AFRes 22 Apr 96 - 6 Aug 96 (3 months 16 days) (Inactive).

(2) Enlisted as AB 7 Aug 96 for 4 yrs. Svd: 3 yrs 3 months 23 days, all AMS. AMN - 7 Feb 97. A1C - 7 Dec 97. SrA - 7 Aug 99. EPRs: 5,4,3.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 1 Dec 99 for 6 yrs. Svd: 4 Yrs 4 Mo 6 Das, all AMS.

b. Grade Status: A1C - 7 Jan 03 (Article 15, 7 Jan 03)

c. Time Lost: None.

d. Art 15's: (1) 7 Jan 03, Ramstein AB, Germany - Article 91. You, on or about 12 Dec 02, were disrespectful in language toward [REDACTED] a noncommissioned officer, then known by you to be a noncommissioned officer, who was then in the execution of his office, by saying to him, "mind your own business," or words to that effect. Reduction to A1C. Suspended forfeiture of \$150.00 pay per month for 2 months. Fifteen days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: (Examiners Note: The following infractions are listed on the Legal Review. Individual documents are missing from the file).

LOR, 25 FEB 04 - Wrongfully used marijuana.

LOR, 25 FEB 04 - Listing the local address as his leave address, when in fact he was in Germany during his leave.

LOR, 16 OCT 02 - Unaccountable during a base exercise.

LOR, 21 MAY 02 - Involvement in an altercation with another military member.

LOR, 25 MAR 02 - Making several inappropriate remarks to a fellow female team member, resulting in his removal from augmentee duty.

f. CM: None.

g. Record of SV: 21 Nov 99 - 20 Nov 00 Osan AB 5 (Annual)  
21 Nov 00 - 28 Nov 01 Ramstein AB 4 (Annual)  
29 Nov 01 - 31 Jul 02 Ramstein AB 2 (CRO)REF  
01 Aug 02 - 21 Jan 03 Ramstein AB 2 (CRO)REF

h. Awards & Decs: AFOUA W/4 OLCS, AFGCM W/1 OLC, NDSM, AFLSAR, AFTR.

i. Stmt of Sv: TMS: (7) Yrs (11) Mos (16) Das  
TAMS: (7) Yrs (8) Mos (0) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 29 Jul 04.  
(Change Discharge to Honorable)

Issue 1: I would like to be able to use my GI Bill to further my education.

ATCH

None.

31AUG04/ia



PD 2004-00304

**DEPARTMENT OF THE AIR FORCE**  
56 FIGHTER WING  
LUKE AFB, ARIZONA 85309

MEMORANDUM FOR 56 FW/CC

15 MAR 2004

FROM: 56 FW/JA

SUBJECT: Legal Review of AFPD 36-32 and AFI 36-3208 Discharge Action [REDACTED]

1. I have reviewed the subject discharge action and find it legally sufficient. [REDACTED]  
[REDACTED] 07 ACS, has recommended that [REDACTED] be involuntarily separated from the United States Air Force Under Honorable Conditions (General) Discharge in accordance with AFPD 36-32 and AFI 36-3208, paragraphs 5.54 and 5.50.2. The member is not eligible for P&R according to AFI 36-3208, section 7.2.6. I concur.

2. In reviewing this action, I find that there is a legally sufficient basis to separate [REDACTED] from the United States Air Force Under Honorable Conditions (General) Discharge without P&R.

a. Basis for discharge:

(1) Between on or about 1 Dec 03 and on or about 31 Dec 03, the Respondent wrongfully used marijuana while on leave in Germany. He admitted to his wrongful use in a statement to AFOSI, Det 421 on or about 3 Feb 04. For this misconduct he received a Letter of Reprimand, dated 25 Feb 04. This action was filed in his Unfavorable Information File (UIF).

(2) On or about 25 Mar 02, while augmenting the Security Forces Squadron as a roving patrol, the Respondent made several inappropriate remarks to a fellow female team member, resulting in his removal from augmentee duty. For this misconduct he received a Letter of Reprimand, dated 25 Mar 02. An Unfavorable Information File (UIF) was established.

(3) On or about 16 May 02, the Respondent was involved in an altercation with another military member during a recreational basketball game. For this misconduct he received a Letter of Reprimand, dated 21 May 02. This action was filed in his UIF.

(4) On or about 15 Oct 02, the Respondent was unaccountable during a base exercise at Ramstein AFB Germany. For this misconduct he received a Letter of Reprimand, dated 16 Oct 02. This action was filed in his UIF.

(5) On or about 12 Dec 02, the Respondent was disrespectful to [REDACTED] a noncommissioned officer, by telling him to "mind his own business." For this misconduct he received an Article 15, dated 7 Jan 03. His punishment included reduction in grade to E-3, suspended forfeiture of pay for 2 months, 15 days extra duty, and a reprimand. This action was filed in his UIF.

(6) Between on or about 1 Nov 03 and on or about 31 Dec 03, the Respondent falsified an

AF Form 988 by listing the local area as his leave address, when in fact he was in Germany during his leave. For this misconduct he received a Letter of Reprimand, dated 25 Feb 04. This action was filed in his UIF.

b. Service characterization: Discharges can be characterized as Honorable, Under Honorable Conditions (General), Entry-Level (ELS) or Under Other Than Honorable Conditions (UOTHC).

(1) Honorable: AFI 36-3208, paragraph 1.18.1, states that an Honorable discharge should be given when the airman's service has met Air Force standards of acceptable conduct and the member's service is so meritorious that any other characterization would be inappropriate.

(2) General: AFI 36-3208, paragraph 1.18.2, states that an Under Honorable Conditions (General) discharge should be given when the airman's service has been honest and faithful, this characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.

(3) UOTHC: AFI 36-3208, paragraph 1.18.3, states that an Under Other Than Honorable Conditions discharge should be given when the airman's pattern of behavior or one or more acts or omissions constitute a significant departure from the conduct expected of airman. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial.

c. Probation and Rehabilitation: AFI 36-3208, paragraph 7.3, states that P&R may be offered to airmen who have demonstrated a potential to serve satisfactorily, have the capacity to be rehabilitated for continued military service or completion of the current enlistment, or whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. If you designate Drug Abuse as the primary basis for discharge, P&R may not be offered, pursuant to AFI 36-3208, paragraph 7.2.6.

3. Member's Response: The Respondent has met with military defense counsel and has waived his right to a discharge board and to submit matters regarding this discharge action.

4. Options for Separation Authority: As the separation authority, you have the following options:

a. Retain the Respondent; or

b. Forward the case to 19 AF/CC recommending the Respondent be discharged with an honorable, general, or under other than honorable conditions discharge, designating Drug Abuse as the primary basis, without probation and rehabilitation;

c. Forward the case to 19 AF/CC recommending the Respondent be discharged with an honorable, general, or under other than honorable conditions discharge, designating a Pattern of Misconduct as the primary basis, with or without probation and rehabilitation; or

d. Reject the Respondent's board waiver and order an administrative discharge board be convened.

5. I recommend that you forward the case to 19 AF/CC recommending the Respondent be

discharged with a general discharge, designating Drug Abuse as the primary basis, without probation and rehabilitation.



Attachments:

1. Copy of Notification Memorandum w/atchs
2. Airman's Receipt of Notification Memorandum
3. Airman's Statement