

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>				GRADE <b>AB</b>		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>	
TYPE GEN		PERSONAL APPEARANCE		<b>X</b>		RECORD REVIEW	
COUNSEL YES      No		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
<b>X</b>							
MEMBER SITTING				VOTE OF THE BOARD			
				HON	GEN	UOTHC	OTHER
							X
							X
							X
							X
							X
ISSUES <b>A93.09</b>		INDEX NUMBER <b>A66.00</b>		EXHIBITS SUBMITTED TO THE BOARD			
				<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		
HEARING DATE <b>27 Apr 2005</b>		CASE NUMBER <b>FD-2004-00445</b>					
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> <p>Names and votes will be made available to the applicant at the applicant's request.</p>							
INDORSEMENT				DATE: 4/27/2005			
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-2004-00445

**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.

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:** Applicant does not contest his discharge. He merely states that he wants to receive the GI Bill. The records indicated the applicant received a Special Court Martial for wrongfully using marijuana. 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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Maxwell AFB, AL on 21 Apr 00 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 Feb 75. Enlmt Age: 20 8/12. Disch Age: 25 2/12. Educ: HS DIPL. AFQT: N/A. A-56, E-60, G-46, M-43. PAFSC: 4N051 - Medical Services Apprentice. DAS: 3 Sep 03.

b. Prior Sv: (1) AFRes 12 Oct 95 - 9 Jan 96 (2 months 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 12 Jan 96 for 4 yrs. Svd: 4 Yrs 3 Mo 11 Das, of which AMS is 4 yrs 0 months 1 day (excludes 3 months 10 days lost time)

b. Grade Status: AB - 20 Oct 99 (SPCMO#6, 21 Mar 00)  
SrA - 10 May 98

c. Time Lost: 20 Oct 99 thru 30 Jan 00 (3 months 10 days).

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial No.6 - 21 Mar 00

CHARGE: Article 112a. Plea: Guilty. Finding: Guilty.

Specification: Did, within the continental United States on divers occasions, between on or about 1 Jan 97 and on or about 19 Mar 99, wrongfully use marijuana. Sentence adjudged on 20 Oct 99: Four months confinement; reduction to the grade of E-1; and a bad conduct discharge (remitted).

g. Record of SV: 10 Jan 96 - 15 Jul 97 Maxwell AFB 5 (Initial)  
16 Jul 97 - 12 Nov 98 Maxwell AFB 5 (Annual)  
13 Nov 98 - 10 Aug 99 Maxwell AFB 3 (CRO) REF

h. Awards & Decs: AFOUA, AFLSAR, AFGCM, AFTR.

i. Stmt of Sv: TMS: (4) Yrs (9) Mos (10) Das  
TAMS: (4) Yrs (0) Mos (1) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 1 Nov 04.  
(Change Discharge to Honorable)

Issue 1: I am requesting for my discharge to be upgraded to an honorable discharge in order to utilize the VA GI Bill for school. My four years of service providing my record review despite my set back displays my dedication. I just wish to utilize the funds provided by the VA to become a better asset to our community.

**ATCH**  
None.

25JAN05/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 42D AIR BASE WING (AU)  
MAXWELL AIR FORCE BASE ALABAMA

FD 2004-00445

DEC 02 1999

MEMORANDUM FOR SRA [REDACTED] 42d Medical Operations Squadron

FROM: 42 MDOS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct-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 will be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reason for this action is: On divers occasions between on or about 1 January 1997 and on or about 19 March 1999, within the continental United States, you wrongfully used marijuana. For this offense, you received trial by special court martial, with punishment consisting of 4 months confinement, reduction to the grade of Airman Basic (E-1), and a Bad Conduct Discharge (Bad Conduct Discharge to be mitigated by Convening Authority per Pretrial Agreement).
3. 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. 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. Please consult your counsel, Capt [REDACTED] at DSN [REDACTED]. 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 within 3 workdays, 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 behalf, your failure will constitute a waiver of your right to do so.
7. You have been scheduled for a medical examination. You should report to Bldg 29, Physical Exams Section at 1300 on 6 Dec 99 for the examination. You should hand-carry your medical records and arrive 15 minutes early for your appointment.
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.

[REDACTED]  
Colonel, USAF  
Commander, 42d Medical Operations Squadron

Attachments:

1. ROI, dated 22 March 1999
2. AF Form 1359, dated 20 Oct 99
3. Airman's Receipt of Notification
4. Airman's Statement