

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

TYPE GEN	X	PERSONAL APPEARANCE	RECORD REVIEW								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">COUNSEL</td> <td style="width: 50%;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">YES</td> <td style="width: 50%;">No</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table> </td> <td></td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">YES</td> <td style="width: 50%;">No</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>	YES	No		X		ADDRESS AND OR ORGANIZATION OF COUNSEL	
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YES	No										
	X										

MEMBER SITTING

VOTE OF THE BOARD

HON	GEN	UOTHC	OTHER	DENY
				X
				X
				X
				X
				X

ISSUES	A94.06 A01.47 A94.43	INDEX NUMBER	A94.39		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		CASE NUMBER			
17 May 2005		FD-2004-00456			

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at Washington, D.C. via video-teleconferencing with St. Augustine, Florida.

Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.

Names and votes will be made available to the applicant at the applicant's request.

INDORSEMENT

DATE: 5/25/2005

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00456

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reenlistment code. The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, via video teleconferencing at St. Augustine, Florida, on 17 May 2005. The applicant was represented by Mr. [REDACTED], of the Florida Disabled American Veterans.

The following additional exhibits were submitted at the hearing:
Exhibit # 5: Applicant's Personal Written Statement

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of 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.

ISSUES: The applicant received a letter of reprimand, dated 26 September 1989, for illegally transporting and importing ("smuggling") anabolic steroids into the United States, resulting in his discharge with a general, under Honorable conditions, characterization on 7 November 1989 for misconduct - drug abuse. The applicant contends his discharge was inequitable because, while he was made aware that use of narcotics and underage alcohol usage were illegal, he was not informed that anabolic steroids were illegal to use, obtain, or be in possession of, during his delayed and active periods of enlistment. Additionally, the applicant contends that there were no "comprehensive programs" offered to him in order to help with drug rehabilitation and education. Finally, the applicant contends that the actions taken against him were "swift and decisive" and that he did not receive alternative actions, such as a reduction in rank, or "other forms of punishment." Based upon evidence of record and the applicant's testimony, the Board was of the belief the applicant was sufficiently aware of the illegal nature of his actions, as noted by his initial denial of possession of the substance at a US-Mexican border inspection point, and its concealment upon his person and within his personal items. Additionally, the applicant testified that he had previously made a trip to Mexico to procure anabolic steroids without apprehension. The Board acknowledges that during the period of the applicant's military service, there may have been a greater emphasis on briefings on narcotics and underage alcohol usage. However, the Board opined this factor does not mitigate the applicant's initial and continued use of the drug, even after being made fully aware of its illegal nature. Finally, the applicant's medical records reflect his attendance at physical assessments of his body habitus on 14 December 1988 and 28 August 1989, in addition to a mental health assessments on or about 9 May 1989 and 2 August 1989, times in which the Board opined the applicant had an ample opportunity to address any steroid addiction or rehabilitative matters. The Board lauds the member's post-service accomplishments, but found these do not mitigate the serious offense of illegal drug purchase, its concealment, continued usage, and transport across an international border.

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]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Norton AFB, CA on 7 Nov 89 UP AFR 39-10, para 5-50.1 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Dec 68. Enlmt Age: 18 3/12. Disch Age: 20 11/12. Educ: HS DIPL. AFQT: N/A. A-77, E-50, G-50, M-66. PAFSC: 63130 - Fuel Specialist. DAS: 23 May 88.

b. Prior Sv: (1) AFRes 9 Mar 87 - 31 Jan 88 (10 months 23 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 1 Feb 88 for 6 yrs. Svd: 1 Yrs 9 Mo 7 Das, all AMS.

b. Grade Status: A1C - 16 Mar 88

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 26 SEP 89 - Drug smuggling and abuse.

f. CM: None.

g. Record of SV: 1 Feb 89 - 30 Sep 89 Norton AFB 2 (Initial) REF

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (0) Das
TAMS: (1) Yrs (9) Mos (7) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 Nov 04.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because of the following reasons. During delayed enlistment and enlistment I was not informed that anabolic steroids were illegal to use, obtain or be in possession of.

Issue 2: I was properly informed during delayed enlistment and enlistment that narcotics and alcohol (underage) usage was illegal under military law.

Issue 3: No comprehensive programs were offered in order to help with drug

rehabilitation/education.

Issue 4: Punishment was swift and decisive and no alternatives were given, such as loss of rank or other forms of punishment.

ATCH

1. DD Form 214.
2. Response to Administrative Discharge.
3. AF Form 100.
4. Prisoner Administrative Processing.
5. Report and Disposition of Offenses.
6. DD Form 2366.
7. Job Screening Worksheet.
8. Report of Medical History.
9. Classification On-The-Job Training Action.
10. Enlisted Performance Report.
11. Olympic Analytical Chemistry Report.
12. Receipt of Notification Letter.
13. Letter of Reprimand.
14. Copies of Administrative Discharge Documents.
15. Report of Medical Examination.

18JAN05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 63D MILITARY AIRLIFT WING (MAC)
NORTON AIR FORCE BASE CA 92409

FD 2004-00456

REPLY TO
ATTN OF: 63 SUPS/CC

02 OCT 1989

SUBJECT: Notification Letter

TO: A10 [REDACTED] 63d Supply Squadron

1. I am recommending your discharge from the United States Air Force for drug use. The authority for this action is AFR 39-10, paragraph 5-50.1. 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 reasons for this action are:

a. On or about, 25 Apr 89 you were apprehended and fined by US Customs personnel at the international border, San Diego, California for attempting to smuggle 1,470 milligrams of steroids. Letter of Reprimand, 26 Sep 89.

b. You were found to have used unlawful drugs, specifically anabolic steroids by the positive result for steroid testing of your urine. Laboratory report, 24 Jul 89 and Letter of Reprimand, 26 Sep 89.

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.

3. 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 the Area Defense Counsel, bldg 538, room 937, on 2 Oct 89 at 1530 hours. You may consult civilian counsel at your own expense.


4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 5 Oct 89. unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the USAF Clinic. Norton AFB CA, bldg 100, at 0715 hours on 10 Oct 89, for the examination. Do not do any strenuous lifting, jogging, or smoking, and do not eat or chew anything, or drink anything but water, within 12 hours prior to your physical. Do not consume any alcoholic beverages within 72 hours of your physical.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10 attachment 6. A copy of AFR 39-10 is available for your use in the 63 Supply Squadron Orderly Room.

8. Execute the attached acknowledgement and return it to me immediately.


Squadron Section Commander
63d Supply Squadron

3 Atchs

1. Letter of Reprimand, 26 Sep 89
2. Laboratory Report, 24 Jul 89
3. Receipt of Notification Letter