

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(TIAL)									
TYPE UOTH		<b>X</b>		PERSONAL APPEARANCE			RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No	[REDACTED] THE AMERICAN LEGION			[REDACTED]				
<b>X</b>									
MEMBER SITTING					VOTE OF THE BOARD				
					HON	GEN	UOTHC	OTHER	DENY
									<b>X</b>
									<b>X</b>
									<b>X</b>
									<b>X</b>
									<b>X</b>
ISSUES		INDEX NUMBER			EXHIBITS SUBMITTED TO THE BOARD				
A01.31		A93.17							
A99.13					1 ORDER APPOINTING THE BOARD				
A00.27					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							
16 June 2005		FD-2004-00469							
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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 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: 6/16/2005				
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**

CASE NUMBER

**FD-2004-00469**

**GENERAL:** The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB on 16 June 2005.

The following additional exhibits were submitted at the hearing:

Exhibit #6: Applicant's Additional Issues

Exhibit #7: Character Reference Letter, Ms [REDACTED]

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

**FINDINGS:** Upgrade of discharge and change of reason and authority for discharge are denied.

**ISSUE:**

Issue 1. The applicant contends her discharge was improper because her case should have received dual processing (medical discharge and administrative discharge) in accordance with AFI 44-157. The applicant suffered from shortness of breath and chest pain and was undergoing medical testing to determine the nature of her medical problems when she submitted the urine sample that tested positive for cocaine. At the time she was discharged, her records were being prepared for a Medical Evaluation Board (MEB) fitness determination due to her diagnosis of asthma. Therefore, the DRB considered the case as if it should have been a dual processing case. The DRB determined that any impropriety was a harmless error. The same personnel who sit on the DRB also sit on the Personnel Boards and hear dual processing cases. The DRB members were quite certain that, had the applicant's case received dual processing, the administrative discharge for drug abuse would have been given precedence. Another point merits discussion, although not raised by the applicant as an issue. AFI 36-3209, paragraph 3.24, requires Secretarial approval of a UOTHC given to an enlisted member. Despite this provision, the case was not referred to the Secretary. However, given the facts of this case, the DRB had no doubt that a UOTHC was the appropriate characterization.

Issue 2. The applicant claims that her discharge was improper because the discharge board that recommended her discharge in 2003 was aware that she had met a previous discharge board for cocaine use. The applicant's contention is without merit. The records available to the DRB clearly show the legal advisor to the discharge board gave proper limiting instructions to the discharge board members concerning their use of the information in their deliberations.

Issue 3. The applicant asked the DRB to consider that the applicant had received an honorable discharge and been allowed to reenlist even though she had faced an administrative discharge board for cocaine use in 1999. While the applicant was retained and allowed to reenlist, that does not change the misconduct for which she was discharged nor the appropriate service characterization for that discharge. The DRB recognized that the applicant had served satisfactorily for 17 years before the discharge was executed, but concluded the applicant's misconduct outweighed the positive aspects of her final enlistment.

**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was substantially consistent with the procedural and substantive requirements of the discharge regulation and that the applicant was provided full administrative due process. The errors that occurred were harmless and did not prejudice the applicant.

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 SRA) (HGH TSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr Andrews AFB, MD on 14 Aug 04 UP AFI 36-3209, para 3.21.3.2 (Misconduct - Commission of a Serious Offense - Drug Abuse). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 31 Jan 61. Enlmt Age: 23 5/12. Disch Age: 42 6/12. Educ: HS DIPL. AFQT: N/A. A-95, E-36, G-37, M-22. PAFSC: 2T271 - Air Transportation Journeyman. DAS: 4 May 92.

b. Prior Sv: (1) Enlisted USAFRes as A1C for 6 yrs. Reenlisted as SSgt 4 Feb 90 for 6 yrs. Svd: 11 yrs 6 months 12 days, of which AMS is 1 yr 0 months 10 days. SrA - 1 Sep 85. SSgt - 1 Nov 90. EPRs: None.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted USAFRes as SSgt 22 Jan 96 for 6 yrs. Svd: 7 Yrs 6 Mo 23 Das, of which AMS is 5 months 24 days.

b. Grade Status: SrA - 4 Aug 02 (Demotion).  
TSgt - 1 Mar 01.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 25 Aug 99 - 02 Jun 00 Andrews AFB 4 (CRO)  
03 Jun 00 - 02 Jun 02 Andrews AFB 3 (Bienial)

h. Awards & Decs: AFAM, AFTR, NDSM, AFLSAR W/2 DEVS, AFOUA.

i. Stmt of Sv: TMS: (19) Yrs (1) Mos (6) Das  
TAMS: (1) Yrs (6) Mos (4) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 1 Sep 04.

(Change Discharge to Honorable, and Change the Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Discharge Order.
3. Request for Records.
4. Two DD 214s.
5. Medical Documents.
6. Five Character References.
7. Medical Document.
8. Letter of Appreciation.
9. Air Force Achievement Medal.
10. Certificate of Achievement.
11. Certificate of Appreciation.
12. Certificate of Commendation.
13. Certificate of Appreciation.

27DEC04/ia

PORTING 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:

MEDICAL RECORDS EVIDENCE

b. DOCUMENT 2:

MILITARY RECORDS

c. DOCUMENT 3:

SUPPORT DOCUMENTATIONS

## 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.

I was on active duty when I became ill. I was stationed in Norfolk, VA from Sept 2001 - MAY 2002. I was sent back to my home station (Andrews AFB, MS) for further testing and diagnosis. I was referred to Walter Reed AMC in Washington, D.C. where I was diagnosed with a military aggravated condition. I challenge that my discharge was improper due to the fact that I had a medical condition that was not properly handled by my unit at 45th AW (Andrews) and I was not permitted to have my medical condition reviewed by the MEB even though there was a request put in for me by the medical doctor from Walter Reed Army Medical Center. I had an LOD on file, my unit was aware of my medical LOD, my LOD was approved on Jan 26, 2004, in which I was entitled to Incapacitated Pay Benefits. Please review ALL documents as they show clear evidence that I am to have my discharge upgraded.

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 an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

b. S

2004 Sep 01

UPON RECEIPT, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

## ARMY

Army Review Boards Agency  
Support Division, St. Louis  
ATTN: SFMR-RBR-SL  
9700 Page Avenue  
St. Louis, MO 63132-5200  
(See <http://arba.army.pentagon.mil>)

## NAVY &amp; MARINE CORPS

Naval Council of Personnel Boards  
720 Kennon Street, S.E.  
Rm. 309 (NDRB)  
Washington Navy Yard, DC  
20374-5023

## AIR FORCE

SAF/MIBR  
550-C Street West, Suite 40  
Randolph AFB, TX 78150-4742

## COAST GUARD

Commandant (G-WPM)  
2100 Second Street, S.W.  
Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE

AIR FORCE RESERVE COMMAND

FD 7004-00469

OCT 29 2002

MEMORANDUM FOR TSGT [REDACTED]

FROM: HQ AFRC/DPM  
1000 Marchbanks Rd  
Robins AFB GA 31098-2300

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum, separation action is being initiated against you for misconduct, commission of serious offense, drug abuse. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.21.3.2. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions) and Under Other Than Honorable Conditions Discharge. The type of separation recommended in your case is an Under Other Than Honorable Conditions Discharge.

2. Within 24 hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.

3. The following is a summary of your rights:

a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no cost to you. You may also consult with civilian legal counsel of your choice, but at your own expense. Captain [REDACTED] a Judge Advocate qualified under Article 27(B)(1), UCMJ, has been designated to represent you in connection with this separation action. Her mailing address is HQ AFRC/JAS, 255 Richard Ray Blvd Suite 227, Robins AFB GA 31098-1637. Her telephone numbers are DSN 497-1588, toll free 1-800-458-5391, or commercial (478) 327-1588. Her fax numbers are commercial (478) 327-0032 or DSN 497-0032.

b. You have the right to submit pertinent statements and/or documents in your behalf which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 1000 Marchbanks Rd, Robins AFB GA 31098-2300.

c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 1000 Marchbanks Rd, Robins AFB GA 31098-2300, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. Information regarding an administrative discharge board is provided at Attachment 7.

5. You are not eligible to apply for transfer to the Retired Reserve.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes are attached (Atch 8) for your convenience.



Lt, USAF  
Acting Chief, Military Personnel Division  
Directorate of Personnel

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/  
Supporting Documentation
3. Acknowledgment of Receipt
4. Selection of Rights
5. Request for Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Envelopes (2)

cc:

HQ AFRC/JAS  
459 MSS/DPMSA (Relocation) wo Attachments