

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 150px; height: 1.2em; margin-top: 5px;"></div>				GRADE <div style="background-color: black; width: 100px; height: 1.2em; margin-top: 5px;"></div>		AFSN/SSAN <div style="background-color: black; width: 100px; height: 1.2em; margin-top: 5px;"></div>	
TYPE GEN		PERSONAL APPEARANCE		X		RECORD REVIEW	
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES      No							
		X					
MEMBER SITTING				VOTE OF THE BOARD			
				HON	GEN	UOTHC	OTHER
							X
							X
							X
							X
							X
ISSUES      A93.09		INDEX NUMBER      A66.00		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 27 Apr 2005		CASE NUMBER FD-2004-00491					
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.							
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							
Names and votes will be made available to the applicant at the applicant's request.							
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**

CASE NUMBER

**FD-2004-00491**

**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 contends discharge was inequitable because it was too harsh due to personal problems. The records indicated the applicant received two Article 15s, one for failure to go and the other for wrongfully using marijuana. The applicant states that the Article 15 for marijuana use was fabricated. The record indicates the applicant admitted to the OSI that he used marijuana and a search of his residence resulted in the seizure of substances that field tested for marijuana. Also, the applicant's wife and another military member admitted to smoking marijuana with the applicant on numerous occasions. 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.

**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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Shaw AFB, SC on 12 Mar 99 UP AFI 36-3208, para 5.54 & 5.49 (Misconduct - Drug Abuse and Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Nov 70. Enlmt Age: 22 8/12. Disch Age: 28 3/12. Educ: HS DIPL. AFQT: N/A. A-50, E-38, G-41, M-48. PAFSC: 3E251 - Pavements and Construction Equipment Operator Journeyman. DAS: 12 Sep 96.

b. Prior Sv: (1) AFRes 28 Jul 93 - 23 Feb 94 (6 months 27 days) (Inactive).

(2) Enlisted as AB 24 Feb 94 for 4 yrs. Extended 2 Sep 96 for 19 months. Svd: 3 yrs 10 months 7 days, all AMS. AMN - Unknown. AlC-(EPR Indicates): 24 Feb 94-23 Oct 95. SrA-(EPR Indicates): 23 Jun 96-22 Jun 97. EPRs: 4,4,4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 31 Dec 97 for 4 yrs. Svd: 1 Yrs 2 Mo 9 Das, all AMS.

b. Grade Status: AB - 13 Jan 99 (Article 15, 13 Jan 99)

c. Time Lost: None.

d. Art 15's: (1) 13 Jan 99, Misawa AB, Japan - Article 112a. You, did, between on or about Jul 98 and on or about Sep 98, wrongfully use marijuana. Reduction to AB, forfeiture of \$200.00 pay per month for 2 months, and 45 days extra duty. (No appeal) (No mitigation)

(2) 01 Apr 98, Misawa AB, Japan - Article 86. You, did, on or about 16 Mar 98, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to AlC. Thirty days extra duty. (No appeal) (No mitigation)

e. Additional: ROC, 4 JAN 99 - Unknown (listed on Notification Memorandum attachments but missing from file).

f. CM: None.

g. Record of SV: 23 Jun 97 - 22 Jun 98 Misawa AB 2 (Annual)REF

h. Awards & Decs: AFLSAR, AFTR, HSM, AFOUA W/1 DEV, AFGCM, AFOSLTR.

i. Stmt of Sv: TMS: (5) Yrs (7) Mos (13) Das  
TAMS: (5) Yrs (0) Mos (17) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 10 Dec 04.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Honorable Discharge Certificate.

9FEB05/ia

**7. SUPPORTING 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:**

Statement #1

**b. DOCUMENT 2:**

Statement #2 Attached

**c. DOCUMENT 3:****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.

-This non-custodial interview regarding the criminal accusations made on me by my wife at the time of my service in the United States Air Force at 35th Civil Engineer Squadron, Misawa Japan (AFOSI 98623D17- ) Let me first explain the climate, in which I live in at the time of my custodial interview. I was having problems with my marriage the issue was not getting any better we had gone to my First Sergeant at the time for many different instances of confrontations, marriageable impropriety and accusation by my wife at the time. My First Sergeant had too many young families breaking up and was sending too many spouses home. So he ignored our problems and my plea to send my wife home. The Sergeant felt I needed some counseling and I had appointments to meet with a group. I miss one of the six appointments because I was working and the only one on duty. I did receive an Article 15 for that but it was fabricated to look as though I had misconduct in that year when that occurred a year earlier. Me and my wife relationship had deteriorated and I gave her alternative either come home and try to work it out, or I would get my commander to send her home. This was more than I could deal with mentally. She decided to fabricate a story to get me in more trouble because she knew that she was about to be sent home away from her lover. She had no knowledge of any illegal activity on my part yet she made up this story to hurt me and my career. Now at the time of my interview my friend of 10 years back home in US killed himself. I crumble and gave up fighting all thought I had not done what she said, I lied and admitted to activity that I had not done, but in my mental state I saw know other way out and was promised by the Security Police that I would not be discipline for my actions. That's why in (AFOSI 98623D17- ) have two separate statements one with nothing on the back because I told them nothing and the other because they would not allow me to leave because they believed her. I had a nervous breakdown and could not see any way that they would believe me. I was a young airman confronted with my first situation that I could not function in. All I knew is that I wanted my life back, I wanted my friend back, I wanted happiness back, and I wanted to leave that interrogation room. So I told them what they wanted to hear and was liable for every word I spoke. I have other supporting evidence to my record of service in the Air Reserve.

☒ 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)**

20041210

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See <a href="http://arba.army.pentagon.mil">http://arba.army.pentagon.mil</a> )	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE  
PACIFIC AIR FORCES

FD 2004-00491

09 FEB 1999

MEMORANDUM FOR AB [REDACTED] 35 CES

FROM: 35 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct consisting of drug abuse and minor disciplinary infractions according to AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraphs 5.54 and 5.49. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive a general discharge.

2. My reasons for this action are:

a. Between the months of Jul 98 and Sep 98, you wrongfully used marijuana, for which you received an Article 15 and a UIF entry.

b. On or about 16 Mar 98, you failed to go at the time prescribed to your appointed place of duty, to wit: Bldg 910, for which you received an Article 15 and establishment of an Unfavorable Information File (UIF).

3. Copies of the documents to be forwarded to the separation authority are attached. The commander exercising SPCM jurisdiction, or a higher authority will decide whether you will be discharged or remain 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.

4. 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 Captain [REDACTED] the Area Defense Counsel, at Building 527, on 10 Feb, 1999, at 1000 hours. 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 three workdays of your receipt of this Notification Letter, unless you request and receive an extension for good cause. I will forward them to the separation authority.

6. If you fail to consult counsel, or to submit statements in your own behalf within the time allotted, your failure shall constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 35th Medical Group, on 10 Feb, 1999, at 0730 hours. If you wear glasses, you must bring your glasses to the examination. If you wear contacts, you must remove them the night before the examination.

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 at the Office of the Area Defense Counsel, Building 527, your orderly room, or the Base Publications Library.

9. Execute the attached acknowledgment and return it to me immediately.



Lt Col, USAF  
Commander, 35<sup>th</sup> Civil Engineer Squadron

Date 9 Feb 99

4 Attachments:

1. ROI, dtd 4 Jan 99
2. Art 15/UIF, dtd 8 Jan 99
3. Art 15/UIF, dtd 23 Mar 98
4. Airman's Receipt of Notification Letter