

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ████████████████████	<b>GRADE</b> ██████████	<b>AFSN/SSAN</b> ██████████
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<b>TYPE UOTH</b>	<b>X</b>	<b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>
<b>YES</b>	<b>No</b>		
	<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> A94.06 A93.02 A92.00	<b>INDEX NUMBER</b> A67.70	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		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

<b>HEARING DATE</b> 27 Oct 2005	<b>CASE NUMBER</b> FD-2005-00078	
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**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.

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

\* = Secretarial Authority  
+ = RE Code Upgrade

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**INDORSEMENT** **DATE: 10/31/2005**

<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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-2005-00078**

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 27 Oct 2005. The following witnesses also testified on the applicant's behalf: Mr. [REDACTED], the applicant's father, and Ms. [REDACTED], the applicant's mother.

The following additional exhibits were submitted at the hearing:

- Exhibit #6: Statement by applicant's mother
- Exhibit #7: Character reference email from Captain [REDACTED], Chaplain, USAFR
- Exhibit #8: Summary of DRB cases and actions taken
- Exhibit #9: Secretary of the Navy Scholastic Achievement Award
- Exhibit #10: 2 Award Certificates
- Exhibit #11: 2 Letters of appreciation, Department of the Navy
- Exhibit #12: Psychiatric evaluation, Yale University
- Exhibit #13: 2 Character reference letters, high school English teacher and cross-country coach
- Exhibit #14: Letter from nursing school instructor

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

**FINDINGS:** Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are approved.

The Board finds no evidence of record which substantiates an inequity or impropriety occurred in the processing of the applicant's discharge that would justify a change of discharge. However, based collectively upon the record, the evidence and testimony provided by applicant, and the testimony provided by the applicant's parents, by a split vote the majority of Board members determined that the service characterization, reason for discharge, and RE Code warrant a change.

**ISSUES:** The record reflects that the applicant accepted an Under Other Than Honorable discharge in lieu of a trial by Court Martial for wrongful use of drugs, namely amphetamines. The applicant was randomly selected for a urine drug screen, the results which were positive for amphetamines at 1669 ng/ml (DoD cutoff level for amphetamines is 500 ng/ml). The applicant admitted consuming a pill offered to her by an enlisted individual senior to her in rank and that she did not know the substance to be illegal at the time, but, instead believed that it was a "training enhancer" for boosting her energy for participation in an upcoming exercise. The applicant's mother contends that the applicant's discharge was inequitable because it was too harsh, referring to the record of a series of discharges for drug abuse obtained from the "DoD reading room," that resulted in less severe discharges, i.e. general under Honorable conditions. However, the Board noted that the aforementioned discharge actions were largely due to marijuana usage, a drug considered less serious in nature than the one consumed by the applicant. The applicant and her father contend that she should not be penalized "for the rest of her life" for a mistake she made when young by entrusting the judgment of a noncommissioned officer who offered the applicant what was believed by the applicant to be a legal, over-the-counter pharmaceutical. The Board collectively considered the applicant's age at the time of her offense, her assertion that she did not knowingly consume an illegal drug, the likelihood of the "blind" trust she had in a noncommissioned officer not to jeopardize either her health or Air Force career, and her demonstrated moral and ethical character both prior to entering military service and since her discharge, as corroborated through the testimony of the applicant's parents and numerous character letters, in deciding to offer her relief.

**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.

However, in view of the foregoing findings, the majority of Board members concluded that the overall quality of applicant's service, with consideration of the unique set of circumstances surrounding her consumption of an unknown medication, is more accurately reflected by an Honorable discharge. Additionally, the applicant's RE code should be changed and the reason for discharge should be changed to Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:  
Examiner's Brief

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

[REDACTED]  
[REDACTED]  
(Former AMN) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr Edwards AFB, CA on 4 Apr 00 UP AFI 36-3208, Chapter 4 (Triable by Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 30 Sep 80. Enlmt Age: 17 0/12. Disch Age: 19 6/12. Educ: HS DIPL. AFQT: N/A. A-98, E-85, G-99, M-49. PAFSC: 4F031 - Aeromedical Apprentice. DAS: 4 Jan 99.

b. Prior Sv: (1) AFRes 8 Oct 97 - 28 Jul 98 (9 months 21 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 29 Jul 98 for 4 yrs. Svd: 1 Yrs 8 Mo 7 Das, all AMS.

b. Grade Status: AMN - 29 Jan 99

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (28) Das  
TAMS: (1) Yrs (8) Mos (7) Das

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

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Petition and Congressional Support Letter for Modification of Administrative Discharge.
3. Copy of Military Personnel Record.

14APR05/ia

Personal Account of Circumstances Leading to my Discharge from the Air Force

[REDACTED]

On 28 July 1999 I was ordered to present myself for a random drug screening. I was unconcerned as I have never even considered doing drugs or associated with habitual users. In addition, I had already been subjected to many of these tests.

Sometime in the beginning of August ( I don't remember the actual date) my Non-Commissioned Officer in Charge (NCOIC) and my First Sergeant pulled me from an exercise ambulance crew during a training operation. When they asked my to accompany them my only thought truly was that they had done random room checks and were now taking me to the barracks for inspection. Instead we ended up at Office of Security Investigations (OSI). I was completely bewildered. This was soon replaced by intense fear as I was led into the interrogation room and the questioning began after they had properly informed me of my rights. Nonetheless, I decided that seeing that I hadn't done anything I didn't need a lawyer.

I answered various questions about my social and health habits. This led to the discussion of how I could possibly have ingested drugs. Certainly, if I had taken drugs it was unknowingly and inadvertently. I was terrified and frightened and could not comprehend how this could have happened. I was ordered not to discuss my situation with anyone and, specifically, not to approach my commanding officer.

I remained under investigation but no additional evidence of drug use could be found. The major points of the following months are as follows: I contacted the Legal Defense Department as soon as possible but had to wait a few weeks for an appointment. I eventually contacted the Mental Health Department as I was deeply depressed, very anxious, and my thoughts often turned to suicide. The Capt. Psychologist did not have doctor patient confidentiality so I tried to be vague but it was rather obvious what my situation was. I stopped seeing him after only a few visits as he plainly stated he thought I was guilty. My First Sergeant referred me to a civilian marriage and family counselor. I can't remember his name but he was very helpful.

I continued on with my work at the Flight Surgeon's Office and tried to ignore the looks and whispers of my coworkers and patients. One of the more humiliating experiences was having my name posted in email to the squadron on the promotions list and then having a second note going out saying it had been a mistake. I suppose this really wouldn't have been too big a deal if everyone had not known I was scheduled for promotion, which then led to people asking why it was taken away.

Sometime in October I was given a counseling sheet that detailed that I was no longer allowed to treat patients, real or even just in exercises. I wasn't even allowed to put a bandaid on a minor cut. I also was not allowed to drive the ambulance. Since this was

not explained to any of my co-workers and I was not allowed to explain, everyone began to treat me like a shirker.

On 2 February 2000, I was at last officially charged with amphetamine use. Please note that that there were 6 months between August when I was informed of the charges and February when I was actually charged. Sometime later my First Sergeant transferred me to temporary duty in the Medical Group operations center where I was given secretarial duties.

My court-martial date was set for the end of March and I had to make all preparations for potential imprisonment. The day before my trial was scheduled to start I received my approved Chapter 4 Separation, eight devastating months after it all began. I had chosen to request this separation out of fear. I had been briefed on the consequences of a guilty verdict in a general court martial and I feared that I might spend 5 YEARS in prison for something I hadn't done.

I am writing this letter in support of my request for a review and upgrade of my military discharge status. My current standing is Under Other Than Honorable Conditions, which I believe to be unjust due to the circumstances surrounding my dismissal and its unfavorable impact on my future potential.

Throughout high school I was a student athlete and very involved in community service. I never experimented with drugs or associated with habitual users. I made the decision to enlist in the Air Force at the beginning of my senior year based on a sense of duty and a desire to serve. Having volunteered on the local Navy base, I was aware of the challenges of the military lifestyle and the zero tolerance policy of the Armed Forces.

I was completely dismayed when I was summoned to the Office of Security Investigations to account for the presence of drugs in my latest screening. I had always reported for random screenings without fear, feeling instead a mild sense of irritation that I was selected yet again and was missing valuable work time. I enjoyed my job immensely and would never have jeopardized my military career with something as foolish as drug use. I absolutely would not knowingly ingest drugs. In addition, had I ever felt what my medical training would suggest was the effects of an illegal substance I would have immediately reported my innocent ingestion. However, in my case I felt no such effects and did not have an opportunity to neutralize the situation before it advanced to the charging and court-martial stage.

I endured numerous injustices in the eight months leading up to my discharge. The legal process itself was absurdly slow. Fellow airmen in situations similar to mine were discharged with more favorable conditions in less time. I was restricted in my work duties and had to suffer the rumors and snubs of my co-workers. When the stress began to affect my mental health, I sought counseling where I was informed by my assigned psychologist that he believed I was guilty. The pressure of facing five years in prison for something I did not do was so great that I accepted a Chapter 4 Discharge in Lieu of Court-martial even though it included an Other than Honorable status.

Since my dismissal from the Air Force, I have had difficulty in applying for jobs and even volunteer opportunities due to the requirement of disclosure of military discharge status. I am currently pursuing a degree in nursing and would be devastated if my goal of helping people could not be fulfilled due to my unpropitious expulsion.

FD 2005-00078



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE FLIGHT TEST CENTER (AFMC)  
EDWARDS AIR FORCE BASE, CALIFORNIA

MEMORANDUM FOR 95 ABW/CC  
AFFTC/CC  
IN TURN

*[Handwritten signatures]*

MAR 21 2000

22 MAR 2000

FROM: AFFTC/JA

SUBJECT: Legal Review - Request for Discharge in Lieu of Trial by Court-Martial Amn. *[Redacted]*

1. **Background:** On 28 Jul 99, *[Redacted]* provided a urine sample to the Edwards AFB's Drug Demand Reduction Program based upon her random selection under the Air Forces drug abuse testing program, AFI 44-120. This sample was analyzed at the drug testing division, Brooks AFB. *[Redacted]* urine sample tested positive for amphetamine. A Medical Review Officer reviewed *[Redacted]* medical record and determined that there was no legal prescription that could justify the positive test result. Based on these facts, *[Redacted]* 95<sup>th</sup> AMDS/CC, preferred one specification of wrongful use of amphetamine on 2 Feb 00. On 14 Mar 00, the wrongful use specification was referred to a general court-martial. On 10 Mar 00, *[Redacted]* requested a discharge in lieu of court-martial pursuant to AFI 36-3208, chap 4.

2. **Analysis:** I have reviewed *[Redacted]* request for discharge in lieu of court-martial in accordance with AFI 36-3208, chap 4, and consider the case to be factually, procedurally, and legally sufficient to support separating the accused from the Air Force with an under other than honorable conditions (UOTHC) discharge. Under AFI 36-3208, chap 4, airmen may request discharge after charges have been preferred when a punitive discharge is authorized. In this case, *[Redacted]* preferred a charge against *[Redacted]* for the wrongful use of Amphetamine. At a court-martial, *[Redacted]* could receive a dishonorable discharge, 5 years confinement, forfeiture of all pay and allowances and a reduction to airman basic (E-1).

On 20 Apr 99, the United States Court of Appeals for the Armed Forces (CAAF) decided United States v. Campbell, 50 MJ 154 (CAAF 1999). In overturning a urinalysis case, the court suggested that the government might have a burden to



show that the individual would feel the effect of the drug. Although this case is under reconsideration, and thus not binding precedent, several judges have dismissed cases when the government expert cannot conclusively say that the individual would have felt the effects. All the experts consulted by the government agree that they would not be able to say that ██████████ would necessarily have felt the effect of the amphetamine. It would depend upon when she ingested the drug. Based on these facts, if ██████████ case goes to court-martial, the judge may find the accused not guilty at the conclusion of the government's case. Approval of ██████████ discharge in lieu of court-martial, however, would result in ██████████ receiving a discharge with an appropriate characterization in a timely manner. I recommend that ██████████ request be granted. ✓

3. **Discussion of Accused's Background:** On 29 Jul 98, the Accused joined the Air Force for 4 years. On 4 Jan 99, she arrived here at Edwards AFB, California. The Accused is authorized to wear the Air Force Training Ribbon.

4. **Discussion of Accused's Statement:** The Accused acknowledged that military legal counsel was made available to her and she consulted with counsel. The Accused has submitted a request for discharge in lieu of court-martial.

5. **Characterization of Discharge:** If you determine that the Accused should be discharged, you must determine how to characterize the Accused's service during his current enlistment. The Accused's commander, ██████████ recommends that the Accused's discharge be characterized as under other than honorable conditions. AFI 36-3208, para 4.2, states that discharges in lieu of court-martial should be under other than honorable conditions unless the accused is being tried by summary court-martial. Since the accused's case has been referred to a general court-martial and based on the serious nature of the Accused's misconduct, her service should be characterized as under other than honorable conditions.

6. **95 ABW/CC Options:** As the Special Court-Martial Convening Authority in this case, you may:

a. Recommend that AFFTC/CC disapprove the request for discharge in lieu of court-martial; or,

b. Recommend that AFFTC/CC approve the request for discharge in lieu of court-martial and make a recommendation as to the type of separation.

7. **AFFTC/CC Options**: As the Separation Authority in this case, you may:

a. Disapprove the request for discharge in lieu of court-martial; or,

b. Approve the request for discharge in lieu of court-martial and determine the type of discharge to be issued.

8. **Recommendation**: Based on the current unresolved legal issues, I recommend that the Accused's request for discharge in lieu of court-martial be accepted under AFI 36-3208, chap 4, and that the accused be discharged under other than honorable conditions. If you concur, 95 ABW/CC sign the letter located at **Tab 1** and AFFTC/CC sign the letter located at **Tab 2**.

[Redacted Signature]

[Redacted Name] Colonel, USAF  
Staff Judge Advocate