

LARGE REVIEW BOARD HEARING RECORD

(INITIAL)

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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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	DENY
					X
					X
					X
					X
					X

ISSUES A93.17 A95.00	INDEX NUMBER A67.70	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 18 Aug 2005	CASE NUMBER FD-2005-00082	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT

INDORSEMENT	DATE: 8/19/2005
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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

FD-2005-00082

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

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 and change of reason and authority for discharge 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.

ISSUE:

Issue 1. Applicant contends allegations were unsubstantiated. The records indicated the applicant received two Article 15s, four Letters of Reprimand, three letters documenting verbal counseling, and two letters of documenting a duty/alcohol incident and financial irresponsibility. The member's misconduct included wrongful use of marijuana, dereliction of duty, reporting to work intoxicated on two occasions, failure to pay just debt, reporting to work wearing the wrong uniform, failure to go, and late for work. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. 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.

Issue 2. Applicant states that he was not arrested, convicted, nor sentenced as a result of his discharge and his discharge is hindering employment opportunities. This issue is without merit since an administrative discharge is not dependent on a conviction or an arrest but rather the underlying misconduct. The DRB recognized the applicant was 31 years of age when the discharge took place. There is no evidence he was immature or did not know right from wrong. The Board concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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 AB) (HGH SGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr McGuire AFB, NJ on 9 Mar 90 UP AFR 39-10, para 5-50.1 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 20 Feb 59. Enlmt Age: 22 2/12. Disch Age: 31 0/12. Educ: HS DIPL. AFQT: N/A. A-75, E-45, G-50, M-54. PAFSC: 90250 - Medical Services Specialist. DAS: 26 Jul 85.

b. Prior Sv: (1) AFRes 21 Apr 81 - 9 Sep 81 (4 months 20 days) (Inactive).

(2) Enlisted as AB 10 Sep 81 for 4 yrs. Svd: 3 yrs 0 months 22 days, all AMS. AMN-(APR Indicates): 10 Sep 81-22 Jun 82. A1C-(APR Indicates): 23 Jun 82-22 Jun 83. APRs: 8,8,8.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as A1C 3 Oct 84 for 6 yrs. Svd: 5 Yrs 5 Mo 6 Das, all AMS.

b. Grade Status: AB - 1 Feb 90 (Article 15, 1 Feb 90)
A1C - 1 Aug 89 (Article 15, 1 Aug 89)
SrA - 10 Nov 84

c. Time Lost: None.

d. Art 15's: (1) 1 Feb 90, San Vito AS, Italy - Article 112a. You did, on or about 30 Aug 89, wrongfully use marijuana. Reduction to AB, and forfeiture of \$362.00 pay per month for 1 month. (No appeal) (No mitigation)

(2) 1 Aug 89, San Vito AS, Italy - Article 92. You, knowing of your duties, on or about 13 Jul 89, were derelict in the performance of those duties in that you, by culpable inefficiency failed to complete your base outprocessing, as it was your duty to do. Reduction to A1C, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: SGQ LTR, 3 JUL 89 - Reporting to work with a high content of alcohol in blood.

LOR, 23 JUN 89 - Failure to carry out a just debt.

SGQF LTR, 6 FEB 89 - Financial irresponsibility.

VBC, 28 JAN 89 - Financial irresponsibility.

VBC, 13 JAN 89 - Financial irresponsibility.

LOR/UIF, 5 AUG 88 - Reporting to duty wearing the wrong uniform, failure to go, and late for work.

LOR, 24 JUN 88 - Reporting to duty after overindulgence in an intoxicating substance.

VBC, 2 FEB 88 - Financial irresponsibility.

LOR, 22 OCT 86 - Failure to report for scheduled movement.

f. CM: None.

g. Record of SV: 23 Jun 84 - 25 May 85 Andrews AFB 9 (CRO)
 26 May 85 - 30 Apr 86 San Vito AS 7 (CRO)
 01 May 86 - 10 Dec 86 San Vito AS 9 (CRO)
 11 Dec 86 - 10 Dec 87 San Vito AS 8 (Annual)
 11 Dec 87 - 10 Dec 88 San Vito AS 8 (Annual)
 11 Dec 88 - 25 Jun 89 San Vito AS 7 (CRO)
 26 Jun 89 - 31 Jan 90 San Vito AS 2 (HAF Dir)REF

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

i. Stmt of Sv: TMS: (8) Yrs (10) Mos (17) Das
 TAMS: (8) Yrs (5) Mos (28) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 15 Feb 05.

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

Issue 1: Unsubstantiated allegations.

Issue 2: Prejudicial statement on DD214. My DD 214 has the reason of discharge as "drug abuse". I was not arrested, nor convicted, nor sentenced as a result of my discharge. When applying for jobs with the U.S. Government the Reason for Discharge states "Drug Abuse." This statement on my discharge papers has hindered me making a living and contributing toward society. I am a 50% disabled Vet who is now seeking a career by attending school full time. The allegations concerning my discharge are not true.

ATCH

None.

28APR05/ia



DEPARTMENT OF THE AIR FORCE
7275TH AIR BASE GROUP (USAF)
APO NEW YORK 09240-5000

FD 2005-00082



REPLY TO
ATTN OF: CCQ

1 February 1990

SUBJECT: Notification Letter - Board Hearing

TO: AB [REDACTED]

1. I am recommending your discharge from the United States Air Force for misconduct consisting of drug abuse according to AFR 39-10, under the provisions of paragraph 5-50.1. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. My reason for this action is that on or about 30 August 1989, you wrongfully used marijuana. You received nonjudicial punishment on 1 February 1990 (Atch 1).
3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.
4. You have the right to:
 - a. Consult legal counsel.
 - b. Present your case to an administrative discharge board.
 - c. Be represented by legal counsel at a board hearing.
 - d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
 - e. Waive the above rights. You must consult legal counsel before making decision to waive any of your rights.
5. You have been scheduled for a medical examination. You must report to 7275 ABG Clinic, at 0700 hours, on 6 February 1990.
6. Military legal counsel, Captain [REDACTED], is available to assist you. You can contact Capt [REDACTED] ETS 628-2782/2397. If you have difficulty reaching legal counsel, the base legal office can assist you in contacting counsel. Instead of the counsel originally assigned to represent you, you may have another, if the lawyer you request is in the active military service and is

reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. If this discharge recommendation results in an approved discharge, you may request that it be reviewed in the Office of the Secretary of the Air Force prior to execution.

9. 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 orderly room.

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

 Capt, USAF
Commander, Squadron Section

- 11 Atch
1. AF Form 3070, 1 Feb 90, w/atc
 2. LOR, 22 Oct 86
 3. Delinquent Telephone Bill Ltr, 21 Jan 88
 4. LOR, 24 Jun 88
 5. AF Form 1058, 16 Aug 88, w/2 atc
 6. COM Delinquent Account Ltr, 11 Jan 89, w/atc
 7. Delinquent Account Ltr, 6 Feb 89
 8. LOR, 23 Jun 89
 9. LOR, 3 Jul 89
 10. AF Form 3070, 1 Aug 89
 11. Airman's Receipt