

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

(ITAL)

**GRADE**

**A1C**

<b>TYPE GEN</b>		<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>	
YES	No			
	<b>X</b>			

**MEMBER SITTING**

**VOTE OF THE BOARD**

HON	GEN	UOTHC	OTHER	DENY
				X
				X
				X
				X
				X

<b>ISSUES</b> A01.59	<b>INDEX NUMBER</b> A66.00	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
		<b>1</b>	ORDER APPOINTING THE BOARD
		<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE
		<b>3</b>	LETTER OF NOTIFICATION
		<b>4</b>	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> 29 Dec 2005	<b>CASE NUMBER</b> FD-2005-00275		

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.

**INDORSEMENT**

**DATE: 12/29/2005**

<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, 3RD FLOOR ANDREWS AFB, MD 20762-7002
--	--

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2005-00275**

**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 received a General Discharge for Drug Abuse.

Applicant contends discharge was improper because he met all of the retention criteria specified by Chapter 5, AFI 36-3208, and that both his SQ/CC and WG/CC recommended that he be retained. The records indicated the applicant received an Article 15 for wrongfully using Percocet on divers occasions. While the board noted that his SQ/CC did change his initial recommendation from separation with a General discharge to retention, the records indicate that his WG/CC, the separation authority, signed a memorandum stating that applicant did not prove that he met the seven retention criteria as required by AFR 36-3208, paragraph 5.55.2, and directed that applicant be discharged for Drug Abuse with a General characterization. The DRB opined that applicant's conduct did not involve drug experimentation considering that he admitted in his own statements that he used Percocet on two separate occasions almost one year apart, and further opined that this conduct is neither isolated nor experimental as contemplated by the AFI. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. 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

(Former A1C) (HGH SRA)

**1. MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Peterson AFB, CO on 15 Aug 03 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

**2. BACKGROUND:**

a. DOB: 9 Aug 76. Enlmt Age: 23 9/12. Disch Age: 27 0/12. Educ: HS DIPL. AFQT: N/A. A-97, E-94, G-99, M-84. PAFSC: 1N031 - Intel Applications Apprentice. DAS: 30 Jun 01.

b. Prior Sv: (1) AFRes 10 May 00 - 13 Jun 00 (1 month 4 days) (Inactive).

**3. SERVICE UNDER REVIEW:**

a. Enlisted as A1C 14 Jun 00 for 4 yrs. Svd: 03 Yrs 02 Mo 02 Das, all AMS.

b. Grade Status: A1C - 10 Mar 03 (Article 15, 10 Mar 03)  
SrA - 14 Oct 02  
A1C - 14 Jun 00

c. Time Lost: None.

d. Art 15's: (1) 10 Mar 03, Peterson AFB, CO - Article 112a. You did, at or near Colorado Springs, Colorado, on divers occasions, between on or about 1 May 01 and on or about 30 May 02, wrongfully use Percocet, a Schedule II controlled substance. Reduction to A1C, 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 14 Jun 00 - 15 Jan 02 Peterson AFB 5 (HAF Dir)  
16 Jan 02 - 15 Jan 03 Peterson AFB 5 (Annual)

h. Awards & Decs: AFTR, NDSM, AFOEA.

i. Stmt of Sv: TMS: (03) Yrs (03) Mos (05) Das  
TAMS: (03) Yrs (02) Mos (02) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Jun 05.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. AFI 36-3208, Administrative Separation of Airmen.
3. USAF Drug Testing Laboratory Toxicologist.
4. Eight Character References.
5. Discharge Action Memorandum and Staff Summary Sheet.
6. Legal Review Summary.
7. Written Response to Article 15.
8. Award Nominations.
9. Enlisted Performance Reports.

12AUG05/ia



Issues For Consideration:

1. I believe that my discharge was improper, because I met all of the retention criteria specified in AFI36-3208, Administrative Separation of Airmen (Document 1, page 1, paragraphs 5.55.2.1.2 and 5.55.2.1.3). The only criteria which were in question were as follows:

5.55.2.1.2. Drug abuse occurred as the result of drug experimentation (a drug experimenter is defined as one who has illegally or improperly used a drug for reasons of curiosity, peer pressure, or other similar reasons).

5.55.2.1.3. Drug abuse does not involve recurring incidents, other than drug experimentation as defined above.

2. In support of this, I have included a statement about my case from a USAF Drug Testing Laboratory toxicologist stating that my actions were not consistent with those of a "user" (Document 2, page 1, paragraph 4, sentence 1).

3. I have also included the result of my ADAPT (Alcohol and Drug Abuse Prevention and Treatment) evaluation, which states that the incidents were "experimental and isolative in nature based on his use being curiosity and poor judgment" (Document 3, page 1, paragraph 2, sentence 3).

4. I believe that these documents affirm that I met the retention criteria in question, and should not have been discharged. I have included supporting character references, up my chain of command and from co-workers, recommending that my discharge be waived and that I be retained for continued service in the Air Force.

(Document 4, page 1, paragraph 3, sentence 2)

(Document 5, page 1, paragraph 2, sentence 6)

(Document 6, page 1, paragraph 3, sentence 3)

(Document 7, page 1, paragraph 1, sentence 3)

(Document 8, page 1, paragraph 3, sentence 2)

(Document 9, page 2, paragraph 4, sentence 2)

(Document 10, page 2, paragraph 4, sentence 2)

(Document 11, page 2, paragraph 4, sentence 1)

5. The Discharge Action Memorandum and Staff Summary Sheet from the Staff Judge Advocate show that both my commander and the 21st Space Wing Commander recommended that I be retained as well (Document 12: page 1, paragraph 2, sentence 2 & page 2, paragraph 2, sentence 2).

6. For background, I have included the Legal Review Summary (Document 13, pages 1-4) and my written response to the Article 15 action that occurred prior to my discharge (Document 14, pages 1-3).

7. I have also included, for consideration, two award nominations (Documents 15 and 16) and my Enlisted Performance Reports (Document 17, pages 1-2 & Document 18, pages 1-2). These reflect that my actions were a departure from my normal and customary behavior.


8. I did not have any additional misconduct during my service (Document 12, page 2, paragraph 4, sentence 1).

Please consider an upgrade of my discharge to Honorable and a reconsideration of my reenlistment status.

Please understand that I am fully aware of the mistakes that I made, and that I deeply regret making these poor decisions. I neither had nor have the desire to repeat these same mistakes again, nor to go through such a shameful ordeal again. I hope that these documents show that, overall, I was a good airman who was respected and appreciated among my fellow Air Force members and civilian coworkers. I would like nothing more than to have this discharge upgraded and have the opportunity to reenlist.

Thank you for your time,

A large black rectangular redaction box covering the signature area.



Supporting Documents List:

1. AFI36-3208, Administrative Separation of Airmen (In reference to Document 1, page 1, paragraphs 5.55.2.1.2 and 5.55.2.1.3).
2. USAF Drug Testing Laboratory toxicologist letter (In reference to Document 2, page 1, paragraph 4, sentence 1).
3. ADAPT (Alcohol and Drug Abuse Prevention and Treatment) evaluation (In reference to Document 3, page 1, paragraph 2, sentence 3).
4. Supporting character references:  
  
(In reference to Document 4, page 1, paragraph 3, sentence 2).  
(In reference to Document 5, page 1, paragraph 2, sentence 6).  
(In reference to Document 6, page 1, paragraph 3, sentence 3).  
(In reference to Document 7, page 1, paragraph 1, sentence 3).  
(In reference to Document 8, page 1, paragraph 3, sentence 2).  
(In reference to Document 9, page 2, paragraph 4, sentence 2).  
(In reference to Document 10, page 2, paragraph 4, sentence 2).  
(In reference to Document 11, page 2, paragraph 4, sentence 1).
5. Discharge Action Memorandum and Staff Summary Sheet (In reference to Document 12, page 1, paragraph 2, sentence 2 & page 2, paragraph 2, sentence 2).
6. Legal Review Summary (Document 13).
7. Written response to Article 15 (Document 14).
7. 2 Award nominations (Documents 15 & 16).
8. 2 Enlisted Performance Reports (Documents 17 & 18).



DEPARTMENT OF THE AIR FORCE  
21ST SPACE WING (AFSPC)

FD 2005-00275

23 July 03

MEMORANDUM FOR [REDACTED]  
HQ AFSPC

FROM: HQ AFSPC/CCQ

SUBJECT: Notification Memorandum

**1. Recommendation.** I am recommending that you be discharged from the United States Air Force for Drug Abuse. The authority for this action is AFI 36-3208, *Administrative Separation of Airmen*, para 5.54, 28 May 03. If my recommendation for discharge is approved, your service will be characterized as either Honorable, Under Honorable Conditions (General) or Under Other Than Honorable Conditions (UOTHC). I am recommending that your service be characterized as General.

**2. The Reason for the Recommendation.** Between on or about 1 May 01 and on or about 30 May 02, you did, on divers occasions wrongfully use Percocet, a Schedule II controlled substance. Punishment consisted of reduction to the grade of Airman First Class, 45 days extra duty, and a reprimand, dated 10 Mar 03. An Unfavorable Information File (UIF) was established on 14 Mar 03 (Atch 1).

**3. Separation Authority.** Copies of the documents will be forwarded to the separation authority in support of this recommendation. The commander exercising Special Court-Martial 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.

**4. Legal Advice.**

- a. You have the right to consult counsel.
- b. Military legal counsel has been obtained to assist you.
- c. I have made an appointment for you to consult Captain [REDACTED], the Area Defense Counsel, on 24 July 03 at 0800 hours. You may consult civilian counsel at your own expense. *phone call - DSN 731-3260 FAX 731-7771.*

**5. Submission of Statements.**

- a. You have the right to submit statements on your own behalf.
- b. Any statements you want the separation authority to consider must reach me NLT 1600 hours on 28 July 2003 (**3 workdays**) unless you request and receive an extension from me for good cause shown.
- c. I will send your response to the separation authority.



**6. Waiver.** If you fail to consult counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.

**7. Medical Examination.** You have been scheduled for a medical examination. You must report to Dr. [REDACTED], at 1300 hours on 24 July 2003 for an examination.

**9. Privacy Act.** The Privacy Act of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the orderly room.

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

[REDACTED]  
[REDACTED]  
[REDACTED] Lt Col, USAF  
Commander

Attachments:

1. Nonjudicial Punishment, dated 10 Mar 03 w/UIF
2. Enlisted Performance Report (EPR)
3. Airman's Receipt of Notification Memorandum
4. Permission to Proceed