

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

ITIAL)

GRADE

AB

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

DENY

X

X

X

X

X

ISSUES

A66.00
A94.05

INDEX NUMBER

A66.00
A94.39

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

26 Jan 2006

CASE NUMBER

FD-2004-00283

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 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: 1/26/2006

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

FD-2004-00283

GENERAL: The applicant appeals for an upgrade of his discharge to honorable.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) via videoconference from the Florida State Armory, with DRB deliberation held at Andrews AFB, Maryland, but declined to exercise this right.

Additional exhibits and evidence submitted: None

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 the applicant submitted no issues contesting the equity or propriety of his discharge. Additionally, the Board finds that neither the evidence of record nor that provided by the applicant that substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE: The applicant submitted no additional issues that challenged either the basis for his discharge or characterization of his military service. The applicant received a General discharge on 3 January 2002 for misconduct - drug abuse. Specifically, on 26 November 2001 the applicant received an Article 15 for the wrongful use of marijuana. In his written response to the Article 15, the applicant alleged that he was "innocent," because what "[he] actually smoked was a cigar and not marijuana." Additionally, although not listed among reasons for the applicant's discharge in the Notification Memorandum, the applicant had also received three Letters of Reprimand, dated 3 October 2001, 12 October 2001, and 14 November 2001 respectively, for being late for duty on "numerous occasions," failure to inspect a piece of mission essential equipment, namely a "CTK LR 014," and failure to meet established dormitory standards on re-inspection of his quarters. The Board noted the applicant's stellar pre-service record wherein he maintained high academic standards, achieving membership in Who's Who Among American High School Students and acceptance to attend the US Naval Academy Preparatory School, among other accolades. Thus, the Board considered the plausibility that the charges against the applicant may represent an aberration and not his overall character. Although the applicant alleges that he has "never smoked marijuana in [his] life..." and believes that he was "duped" into admitting he used the drug by his friends, the Board was deprived of an opportunity to consider an upgrade of the applicant's discharge either through his verbal testimony or the presentation of other supporting evidence to the Board. Therefore, with the presumption of regularity in the case under review, the Board found no basis upon which to justify a change in either the reason for the applicant's discharge or the characterization of his military service.

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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Luke AFB, AZ on 3 Jan 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 7 Jun 82. Enlmt Age: 18 7/12. Disch Age: 19 6/12. Educ: HS DIPL. AFQT: N/A. A-99, E-66, G-72, M-50. PAFSC: 2A633 - Aircrew Egress Systems Apprentice. DAS: 5 Jun 01.

b. Prior Sv: (1) AFRes 27 Jan 01 - 5 Feb 01 (10 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 6 Feb 01 for 6 yrs. Svd: 0 Yrs 10 Mo 29 Das, all AMS.

b. Grade Status: AB - 26 Nov 01 (Article 15, 26 Nov 01)

c. Time Lost: None.

d. Art 15's: (1) 26 Nov 01, Luke AFB, AZ - Article 112a. You, did, at or near Phoenix, Arizona, on or about 15 Sep 01, wrongfully use marijuana. Reduction to AB. (No appeal) (No mitigation)

e. Additional: LOR, 14 NOV 01 - Failed dormitory room re-inspection.
LOR, 12 OCT 01 - Dereliction of duty.
LOR, 03 OCT 01 - Late for duty.
RIC, UNKNOWN - Late for duty (mentioned on LOR, 3 Oct 01, missing from file).
MEMO FOR LGMC, 7 AUG 01 - Missed appointment.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (0) Yrs (11) Mos (8) Das
TAMS: (0) Yrs (10) Mos (29) Das

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

FD2004-00283

NO ISSUES SUBMITTED.

ATCH
None.

9SEP04/ia



DEPARTMENT OF THE AIR FORCE
56th Component Repair Squadron (AETC)
Luke Air Force Base, Arizona

DATE: DEC 11 2001

MEMORANDUM FOR AB

56 CRS

FROM: 56 CRS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general.
2. My reason for this action is that on 26 Nov 01, you received and Article 15 for wrongful use of marijuana. Your punishment included reduction to the grade of E-1.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation will be provided to you. 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 discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.
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 the Area Defense Counsel, at Building 1150, Suite 3015, Luke Air Force Base, Arizona, extension 6701, on 12 DEC 01 at 1030 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 by 1530 14 Dec 01 unless you receive an extension for good cause shown. I will send them to the separation authority.
6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.
7. You must retrieve your medical records from the 56th Medical Group Hospital Outpatient records and immediately report to Physical Exams, Building 810, with your medical records and your copy of this AFI 36-3208 discharge package for medical review and/or examination.

8. 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 your unit orderly room.

9. Sign the receipt of notification and return it to me immediately.

Commander

, Maj, USAF