

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF MEMBER (LAST, FIRST, MIDDLE INITIAL)		GRADE A1C			
TYPE UOTH		PERSONAL APPEARANCE		X RECORD REVIEW	
COUNSEL YES No X		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
MEMBER SITTING				VOTE OF THE BOARD	
				HON	GEN
				UOTH	OTHER
					DENY
					X+*
					X+*
					X+*
					X+*
					X+*
ISSUES A92.21		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 14 Feb 2006		CASE NUMBER FD-2005-00319			

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.

+ RE Code

* Reason and Authority

INDORSEMENT

DATE: 2/16/2006

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

CASE NUMBER

FD-2005-00319

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

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, change of reason and authority for discharge, and change of reenlistment code 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.

ISSUES:

Issue 1. Applicant contends discharge should be upgraded because he wants to reenlist and has learned his lesson. The records indicated the applicant received an Article 15 for misconduct. The misconduct included stealing a bottle of Halcion pills, a Schedule IV controlled substance, from the United States Air Force, ingesting the Halcion pills, showing up incapacitated for the proper performance of his duties as a result of previous wrongful overindulgence in drugs, and soliciting the urinalysis monitor to commit the offenses of dereliction of duty and false official statement by requesting that he urinate into the applicant's specimen cup. The Board discussed the Air Force policy on drug abuse. The Board concluded the willful 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. The DRB was pleased to see that the applicant has established a good moral character, became a citizen of the United States, raised a family and is a good citizen. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of 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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr Mather AFB, CA on 30 Sep 91 UP AFR 39-10, para 5-49d and 5-50.1 (Misconduct - Drug Abuse). Appeals for Honorable, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 9 Oct 70. Enlmt Age: 18 10/12. Disch Age: 20 11/12. Educ: HS DIPL. AFQT: N/A. A-67, E-74, G-52, M-83. PAFSC: 90530 - Pharmacy Specialist. DAS: 2 Mar 90.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 23 Aug 89 for 4 yrs. Svd: 02 Yrs 01 Mo 08 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: (1) 5 Nov 90, Mather AFB, CA - Article 121. You did, on or about 23 Jul 90, steal a bottle of halcion pills, the property of the United States Air Force. Article 112a. You did, on or about 24 Jul 90, wrongfully use Halcion, a schedule IV controlled substance. Article 134. You did, on or about 25 Jul 90, wrongfully communicate certain language, to wit: "would you pee in the cup about halfway and mix it", or words to that effect, which language requested the said Sergeant [redacted] to commit the offenses of dereliction of duty and false official statement, offenses under the code. Article 134. You were, on or about 25 Jul 90, as a result of previous wrongful overindulgence in drugs, incapacitated for the proper performance of your duties. Suspended reduction to AB. Forfeiture of \$300.00 pay per month for 2 months (in excess of \$150.00 pay per month for 2 months suspended). Thirty correctional custody. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 23 Aug 89 - 22 Apr 91 Mather AFB 3 (Initial)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (01) Mos (08) Das
TAMS: (02) Yrs (01) Mos (08) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Jul 05.

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

Issue 1: For Re-enlistment (Employment) purposes. I have suffered the consequences of my actions which led to my discharge from the Air Force.

Issue 2: After discharge establish (sic) good moral character and became citizen of the United States of America, raised family and led an exemplary life with no other infraction that will put my good citizenship in question. I want to be able to prove to my children and myself after recent changes in living situations (divorce, unemployment) that I learned my lesson. 14 (sic) yrs of humility, therefore, I request for the Boards consideration and forgiveness. The only justifiable way for me to prove my sincerity is to have the chance to strongly support the country I swear to protect.

ATCH

None.

14SEP05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 323D FLYING TRAINING WING (ATC)
MATHER AIR FORCE BASE CA 95655-5000

FD 2005-00319

REPLY TO
ATTN OF: CC

24 MAY 1991

SUBJECT: Notification Letter--Board Hearing

TO: A1C
323d Flying Training Wing Hospital

1. I am recommending your discharge from the United States Air Force for drug abuse according to AFR 39-10, under the provisions of paragraphs 5-49d and 5-50.1. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 23 July 1990, at or near Mather Air Force Base, you did wrongfully steal a bottle of Halcion pills, the property of the United States Air Force, in violation of Article 121, UCMJ as evidenced by Article 15, 5 November 1990.

b. On or about 24 July 1990, at or near Mather Air Force Base, you did wrongfully use Halcion, a schedule IV controlled substance, in violation of Article 112a, UCMJ, as evidenced by Article 15, 5 November 1990.

c. On or about 25 July 1990, at or near Mather Air Force Base, you did wrongfully communicate certain language, to wit: "would you pee in the cup about halfway and mix it." or words to that effect, which language requested the said Sergeant to commit the offenses of dereliction of duty and false official statement, offenses in violation of Article 134, UCMJ, as evidenced by Article 15, 5 November 1990. Further, on or about 25 July 1990, at or near Mather Air Force Base, as a result of previous wrongful overindulgence in drugs, you were incapacitated for the proper performance of your duties, in violation of Article 134, UCMJ, as evidenced by Article 15, 5 November 1990.

3. This action could result in your separation with an under other than honorable conditions. 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 a decision to waive any of your rights.

6. Military legal counsel Capt Building 2844, extension 42260, has been obtained to assist you. An appointment has been scheduled for you to consult her on 28 May 1991 at 0930. Instead of the appointed counsel, 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 recommendations. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. 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 Building 650, 323d Flying Training Wing Hospital, Room 1-14-24.

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


 Capt, USAF, MSC
 Commander, Medical Squadron Section

2 Atch
 1. AF Fm 3070, Record of Non-judicial Punishment Proceedings, 5 Nov 90
 2. Airman's Acknowledgment