

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
[]		SSGT	[]

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				
	NO				

MEMBER SITTING	VOTE OF THE BOARD				
	ION	GEN	UOTHC	OTHER	DENY
[]					X
[]					X
[]					X
[]					X
[]					X

ISSUES A01.57 A94.05	INDEX NUMBER A94.07	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 05 Jul 2006	CASE NUMBER FD-2005-00340
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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, 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: 7/11/2006
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-2005-00340

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:

Issue 1. Applicant contends discharge was inequitable because it was too harsh and based on one isolated incident after 15 years of service. Applicant received an administrative discharge in lieu of trial by court martial due to a positive testing for marijuana usage. Applicant contends the Testing Lab had been contaminated by members of its own staff falsifying test results, thereby resulting in an incorrect urinalysis on his test. The DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*, submitted by the applicant did not provide documentation or evidence to substantiate this contention. The records indicated applicant signed a statement requesting to be discharged in lieu of court martial and understood the elements of the offense he was being charged. He had an opportunity to review the litigation package and the referred Charge Sheet. After consulting with his Area Defense Counsel, applicant accepted the administrative discharge. 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. Although not explicitly stated, the applicant suggests that his discharge did not take into account the good things he did while in the service. 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 discharge was appropriate for the reasons which were the basis for this case.

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 SSGT) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Lackland AFB, TX on 6 Jul 00 UP AFI 36-3208, Chapter 4 (Discharge in Lieu of Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 29 Sep 67. Enlmt Age: 17 7/12. Disch Age: 32 9/12. Educ: HS DIPL. AFQT: N/A. A-67, E-56, G-76, M-43. PAFSC: 3S071 - Personnel Craftsman. DAS: 13 Feb 98.

b. Prior Sv: (1) AFRes 18 May 85 - 7 Aug 85 (2 months 21 days) (Inactive).

(2) Enlisted as AB 8 Aug 85 for 4 yrs. Extended 28 Oct 88 for 12 months. Reenlisted as SrA 7 Jul 89 for 4 yrs. Svd: 7 yrs 7 months 29 days, all AMS. AMN - 8 Feb 86. A1C - 8 Dec 86. SrA - 8 Aug 88. SSgt - 1 Feb 93. APRs: 9,9,9,9. EPRs: 5,5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 7 Apr 93 for 6 yrs. Extended 18 Nov 97 for 23 months. Svd: 07 Yrs 02 Mo 29 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV:	31 Mar 93 - 30 Mar 94	Scott AFB	5	(Annual)
	31 Mar 94 - 30 Mar 95	Stuttgart-Vaihingen	5	(Annual)
	31 Mar 95 - 30 Mar 96	Stuttgart-Vaihingen	5	(Annual)
	31 Mar 96 - 17 Nov 96	Stuttgart-Vaihingen	5	(CRO)
	18 Nov 96 - 03 May 97	Stuttgart-Vaihingen	5	(CRO)
	04 May 97 - 28 Dec 97	Pope AFB	5	(CRO)
	29 Dec 97 - 28 Dec 98	Lackland AFB	5	(Annual)
	29 Dec 98 - 28 Dec 99	Lackland AFB	5	(Annual)

h. Awards & Decs: AFCEM W/3 BOLCS, AFAM, AFOUA, AFOEA, AFGCM W/3 BOLCS, NDSM, AFOSSTR, AFOSLTR, AFLSAR W/2 BOLCS, NCOPMER, SAEMR W/1 BS, AFTR.

i. Stmt of Sv: TMS: (15) Yrs (01) Mos (19) Das
TAMS: (14) Yrs (10) Mos (29) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 18 Aug 05.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incident in 15 years of service. The Testing lab had been contaminated by members of its own staff falsifying test results. This contamination resulted in an incorrect urinalysis.

ATCH

None.

25OCT05/ia

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)		2. SSN	3. GRADE OR RANK	4. PAY GRADE
			SSgt	E-5
5. UNIT OR ORGANIZATION			6. CURRENT SERVICE	
319th Training Squadron Lackland Air Force Base, Texas 78236-5158			a. INITIAL DATE	b. TERM
			7 Apr 93	6 years
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		
\$1,932.60	\$0.00	\$1,932.60	None	

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE 112a

SPECIFICATION:
 In that STAFF SERGEANT: [redacted] United States Air Force, 319th Training Squadron, Lackland Air Force Base, Texas, did, at or near San Antonio, Texas, between on or about 1 October 1999 and on or about 15 October 1999, wrongfully use marijuana.

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE	c. ORGANIZATION OF ACCUSER
	Lt Col	Commander, 319th Training Squadron
d. SIGNATURE OF ACCUSER	e. DATE	
	23 Feb 00	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 23rd day of February, ~~XX~~ 2000, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

<p>[redacted]</p> <p><i>Typed Name of Officer</i></p> <p>Captain <i>Grade</i></p> <p>[redacted]</p> <p><i>Signature</i></p>	<p>37th Training Wing <i>Organization of Officer</i></p> <p>Assistant Staff Judge Advocate <i>Official Capacity to Administer Oath</i> (See R.C.M. 307(b) must be commissioned officer)</p>
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12. On 23 Feb, ~~XX~~ 2000, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

Typed Name of Immediate Commander
Lieutenant Colonel
Grade

Signature

Commander, 319th Training Squadron
Organization of Immediate Commander

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 0847 hours, 23 Feb, ~~XX~~ 2000 at 37th Training Wing
Designation of Command or
(AETC) Lackland Air Force Base, Texas 78236-5155
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE _____ COMMANDER

Typed Name of Officer

Colonel
Grade

Signature

Staff Judge Advocate
Official Capacity of Officer Signing

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY <u>HEADQUARTERS 37TH TRAINING WING (AETC)</u>	b. PLACE <u>LACKLAND AFB, TEXAS</u>	c. DATE <u>14 March 2000</u>
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Referred for trial to the SUMMARY court-martial convened by SPECIAL ORDER AG-9

DATED 14 March, ~~XX~~ 2000, subject to the following instructions:² NONE

~~XX~~ FOR THE COMMANDER ~~XX~~
Command or Order

Typed Name of Officer

Colonel
Grade

Signature

STAFF JUDGE ADVOCATE
Official Capacity of Officer Signing

15. On 15 March, ~~XX~~ 2000, I (caused to be) served a copy hereof on ~~each of~~ the above named accused.

Typed Name of Trial Counsel

Signature

CAPTAIN
Grade or Rank of Trial Counsel

FOOTNOTES: 1. When an appropriate commander signs personally, inapplicable words are stricken.
 2. See R.C.M. 601(e) concerning instructions. If none, so state.