

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE A1C		
TYPE GEN		PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		
YES	No	ADDRESS AND OR ORGANIZATION OF COUNSEL		
	X			

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A57.03	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-2005-00345	
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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.

INDORSEMENT		DATE: 2/15/2006
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-2005-00345

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 contends discharge was inequitable because it was based on one isolated incident. The records indicated the applicant received an Article 15 and one Letter of Counseling for misconduct. The misconduct was for the use of marijuana on divers occasions. The Board discussed the Air Force policy on drug use. 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 McGuire AFB, NJ on 8 Dec 95 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 24 Aug 70. Enlmt Age: 18 9/12. Disch Age: 25 3/12. Educ: HS DIPL. AFQT: N/A. A-89, E-51, G-53, M-13. PAFSC: 2T251 - Air Transportation Journeyman. DAS: 17 Mar 95.

b. Prior Sv: (1) AFRes 9 Jun 89 - 14 Aug 89 (2 months 6 days) (Inactive).

(2) Enlisted as AB 15 Aug 89 for 4 years. Extended on 23 Oct 91 for 12 months. Svd: 3 Yrs 05 Mo 27 Das, all AMS. Amn - 15 Feb 90. A1C - 15 Dec 90. SrA - 15 Aug 92. EPRs: 3,5,4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 12 Feb 93 for 4 yrs. Svd: 02 Yrs 09 Mo 27 Das, all AMS.

b. Grade Status: A1C - 11 Oct 95 (Article 15, 11 Oct 95)

c. Time Lost: None.

d. Art 15's: (1) 11 Oct 95, Osan AB, Korea - Article 112a. You, did, within the territorial limits of the United States, between on or about 1 Jun 95 and on or about 19 Jun 95, wrongfully use marijuana. Reduction to A1C, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOC, UNDATED - Financial irresponsibility. (Document listed on the Recommendation for Discharge letter, but is missing from the file).

f. CM: None.

g. Record of SV:	25 Jul 92 - 24 Jul 93	Howard AFB	3	(Annual)REF
	25 Jul 93 - 02 Jan 94	Howard AFB	5	(CRO)
	03 Jan 94 - 01 Nov 94	Osan AB	5	(CRO)

h. Awards & Decs: AFAM, AFLSA, AFTR, AFOSLTR, NDSM, AFGCM W/1 DEV, AFOSSTR.

i. Stmt of Sv: TMS: (06) Yrs (06) Mos (00) Das

TAMS: (06) Yrs (03) Mos (24) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 09 Aug 05.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incident in 73 months (6 yrs 1 month) of service with no other adverse action.

ATCH
None.

30SEP05/ia

8 Nov 95

MEMORANDUM FOR: Airman First Class(E-3)
621 Aerial Port Squadron / 1KMA

FROM: CC

SUBJECT: Notification Letter--Board Hearing

1. I am recommending your discharge from the United States Air Force for Drug Abuse according to AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.54. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
- 2 My reason for this action is: You, did, within the territorial limits of the United States, between on or about 1 June 1995 and on or about 19 June 1995, wrongfully use marijuana. For this you received nonjudicial punishment under Article 15, reduction to the grade of E-3 (Airman First Class), with a new date of rank of 11 October 1995, and 30 days extra duty.
3. This action could result in your separation with a Under Other Than Honorable Conditions discharge. I am recommending that you receive a Under Honorable Conditions (General) 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 and will probably be denied enlistment in any component of the armed forces.
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.
5. You have been scheduled for a medical examination. You must report to Walson Air Force Hospital (Physical Exams) on 13 Nov 95, at 0745 hours.

6. Military legal counsel, Captain (O-3) _____, Building 2906 room 33, McGuire AFB, New Jersey, duty telephone number 724-2349, has been obtained to assist you. An appointment has been scheduled for you to consult her on 8 Nov 1995 at 1230 in room 33 of building 2906. 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 AFI 51-201. 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. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208, is available for your use, from the orderly room. Return it to them when the case is completed.
9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.
10. The discharge board or, the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).
11. Execute the attached acknowledgment and return it to me immediately.

, Maj, USAF

/ Commander

Attachments:

1. Article 15, 11 Oct 95, w/attachments
2. Statement of Michael A. Figueroa, dated 20 July, 1995.
3. Urinalysis Results, Message file name: M004
4. Letter of individual counseling
5. Airman's receipt of notification memorandum
6. EPRs (6)