

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%; margin-top: 5px;"></div>	GRADE AMN	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%; margin-top: 5px;"></div>
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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	
	X	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
					X
					X
					X
					X

ISSUES A92.21 A93.01	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 IIE

HEARING DATE 28 Sep 2006	CASE NUMBER FD-2006-00055	
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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 in 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: 10/2/2006
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-2006-00055

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 states that his discharge did not take into account the good things he did while in the service. The records indicated the applicant received an Article 15 for misconduct. The Article 15 was for wrongful use of cocaine. He was punished with a reduction in grade to airman and forfeiture of pay. The DRB took note of the applicant's duty performance. 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.

Issue 2. The DRB was pleased to see that the applicant was doing well and has a good job. 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.

Issue 3. Although not explicitly stated, applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 20 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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

[REDACTED] (Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Lackland AFB, TX on 12 Oct 04 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.
2. **BACKGROUND:**
 - a. DOB: 1 Oct 84. Enlmt Age: 18 1/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-39, E-50, G-53, M-46. PAFSC: 4A031 - Health Services Management Apprentice. DAS: 13 Jan 04.
 - b. Prior Sv: (1) AFRes 8 Nov 02 - 30 Jun 03 (7 months 23 days) (Inactive).
3. **SERVICE UNDER REVIEW:**
 - a. Enlisted as AB 1 Jul 03 for 6 yrs. Svd: 01 Yrs 03 Mo 12 Das, all AMS.
 - b. Grade Status: Amn - 26 Jul 04 (Article 15, 26 Jul 04)
A1C - 15 Aug 03
 - c. Time Lost: None.
 - d. Art 15's: (1) 26 Jul 04, Lackland AFB, TX - Article 112a. You, did, at or near San Antonio, Texas, on or about 12 Jan 04, wrongfully use cocaine. Reduction to Amn, and forfeiture of \$668.00 pay per month for 2 months. (No appeal) (No mitigation)
 - e. Additional: None.
 - f. CM: None.
 - g. Record of SV: None.
 - h. Awards & Decs: NDSM, AFTR.
 - i. Stmt of Sv: TMS: (01) Yrs (11) Mos (05) Das
TAMS: (01) Yrs (03) Mos (12) Das
4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Jan 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Special Court Martial No.6, 26 Jul 04.
4. Voting Card.
5. Certificate of Achievement.
6. Three Training Certificates.
7. Certificate of Enlistment.
8. Award Certificate.
9. Certificate of Appreciation.
10. Three Letters of Appreciation.

22MAR06/ia

MEMORANDUM FOR AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FROM: [redacted]

SUBJECT: Request for Discharge Upgrade, [redacted]

Sir or Madam, my name is: [redacted]. I entered the Air Force on July 1st, 2003. I was then sadly discharged on the date of October 12th, 2004. For the reasons explained in the paragraphs that follow, I respectfully request your consideration and support to upgrade my discharge from "Under Honorable Conditions" (General) to an "Honorable" discharge.

I was born on October 1st, 1984 in the town of Tacoma, Washington. I resided in Washington until I was approximately ten years old. I then moved to Wisconsin as a result of my parents divorce. That is where the majority of my family resided. At the age of sixteen, I was visiting with my father and his family. In the duration of this visit, I decided to make it permanent and move in with my father. After residing in Texas for a roughly a year my father received PCS orders to Malmstrom Air Force Base, Montana. In the beginning of my senior year of highschool (2002), I decided to join the United States Air Force.

On the day of July 1st, 2003 I left for Basic Military Training. After graduating Basic on August 15th, 2003, I headed for Sheppard Air Force Base, Texas. This was for my Technical School in the career field of 4AO31, Health Service Management Apprentice. I then graduated on January 9th, 2004. While in Tech School I received an award certificate for displaying the core value "Excellence In All We Do" for an outstanding uniform. This award was given to me by the Superintendent of the course. After graduation, I received orders to Lackland AFB, Texas.

Upon arrival at Lackland Air Force Base on the date of January 12th 2004, I met my sponsor Airman First Class: [redacted]. A few days later Airman Morales had invited me to go out with him and some friends. The way I looked at it, being brand new to this base, I figured I could meet some friends. So I accepted his invitation. Little did I know my brand new squadron had assigned me a sponsor under investigation by the Air Force Office of Special Investigations.

On the date of January 14th, 2004, was the day my sponsor Airman: [redacted] and myself were going to go meet up with some people at some establishment. Later that night we met up with two Mexican males by the name of "[redacted]" and "[redacted]". Airman: [redacted] introduced these two males as members of the Mexican Mafia. I found that kind of odd that Airman Morales would be involved with this type of people (Mexican Mafia). Later on that night I proceeded to the restroom where Airman: [redacted] was accompanied by the two

Mexican Mafia members [redacted] and [redacted]. I had previously drank some alcoholic drinks prior to this encounter in the restroom. The next thing I knew one of the two Mexican Mafia members pulled out this small bag which contained a white powdery substance. Airman [redacted] and the two Mexican Mafia guys all sniffed the substance they referred to as cocaine. They then offered me a so called "hit" off the tip of a key. I strongly refused. Then the two Mexican Mafia guys were looking at me dirty with suspicion. The three men then proceeded to do another "hit" off the tip of a key, and offered me a second time. My judgement was very questionable at this time after having ingested some alcoholic drinks prior to this incident. Out of fear and very poor judgement at the time, I sniffed a very small amount of a white powdery substance off the tip of the key. Again, please keep in mind I was under the impression these two males were in the Mexican Mafia.

A few weeks later I was questioned by AFOSI Special Agents. After being questioned about the night on January 14th, 2004, I admitted to the single one time use of cocaine. I completely cooperated with OSI and my squadron one-hundred percent.

In the time following my meeting with the Office of Special Investigations, I returned to normal duty. During this time, I received an award for my duty section. This award was called Admissions and Dispositions Tech of the month. My supervisors were very pleased with my performance.

A few months later I was called in for an appointment with my Squadron Commander, Lieutenant Colonel [redacted]. At this meeting I was read my charges and sent to the Area Defense Counsel. After consulting with my Area Defense Council, Captain Dominic Ayotte, he advised to enter a guilty plea in front of a military judge alone. I did what he advised and my court martial was set for the date of June 10th, 2004.

On the date of June 10th, 2004 at my Special Court Martial, my father, who at the time was in the military, now retired, was Master Sergeant [redacted]. He came down and testified on my behalf. Which I am very thankful for because he helped my attorney out on pointing out some issues with my squadron. Also at the trial on my behalf was my immediate supervisor Staff Sergeant [redacted]; shift supervisor Staff Sergeant [redacted]; and of course friends and family. Throughout the trial the Military Judge even was showing concern with the way everything was handled in this case. In the end I was found guilty in the violation of Article 112a under the UCMJ. My original sentence was 30 days confinement, reduction to the grade of E-2 (Airman), and forfeiture of pay in the amount of \$600 per month for four months.

Immediately after my trial I was taken to the confinement facility. During this time, I had much time to think about what I had done. While I was in confinement I petitioned for clemency. My request to the conveying authority was to set aside my criminal conviction and replace it with an Article 15. So approximately a month later on the date of July 6th, 2004, my attorney and I met with Brigadier General [redacted], the commander of the 59th Medical Wing. At this meeting, General [redacted] saw that this case was very concerning and granted my request. Only, after disapproving my conviction, he kept me at the rank of E-2 and took half of

my pay for one-month.

After released from confinement I was assigned to Outpatient Records in Wilford Hall Medical Center for one month. During this duty assignment, it was my duty to file military personnel medical paperwork. Myself was one of many Airman pulled from their regular duty section for this detail. In the month of August I was then put in a section of the hospital known as Forms and Publications. In this duty I was responsible for maintaining forms, publications and technical orders. Also I conducted inventories, research, along with ordering and stocking forms. Also received requests from all functional areas of development, which included the design and reproduction of new or revised forms.

Because of this course of action I was not under the impression that I would be discharged. I didn't want to be discharged, I was proud to be a member of the United States Air Force. Not only because I was following in the foot steps of my father, who I respect, but also for the love of my country. The decision I made has affected the entire course of my life. I am now at a crossroad, and I need to resolve this in order to move on. I realized how this decision affected more than just me, but also the ones I love. I do believe I have learned from my mistake, and want to move forward. I greatly appreciate your consideration in the decision to upgrade my discharge from General to Honorable. I have included along with this letter, several statements on my behalf. If you would like additional information regarding my case please contact me at the address listed below. Again, I cannot thank you enough for your time and consideration of this matter.

Sincerely,



Since my time out of the military, I have been a productive member of society. I have registered to vote, I have also stayed in the healthcare field, I am currently a Certified Nurse Assistant at Benefis Healthcare in Great falls, Montana. I have been currently working at this job for one year. I have always enjoyed working in the healthcare environment. I have provided copies of certain documents related to my case.

I have provided you with a copy of my Court Transcripts. I have taken the time highlight certain statements during my trial that are relevant to my case. These highlighted statements are on pages: 14, 15, 37-39, 42, 43, 61, 62, 64, and page 69. I also strongly encourage you to review the **Defense Exhibits**. In this section you will find Character statements from several military members, including my former coworkers in the military.

Also, I have provided a copy of:

- DD Form 214
- Special Court Martial Order No. 6
- Voter's Registration Card
- Certificate of Achievement for completing my Certified Nurse Assistant program
- Three Certificate's of Training
- Certificate of Enlistment
- Award Certificate
- USAF Certificate of Appreciation
- Three letters of Appreciation from my current coworkers at Benefis Healthcare

Again I would like to take this time to thank you for your time and consideration for upgrading my discharge from General "Under Honorable Conditions" to Honorable. I have truly regretted the mistake I made in the military, I would like to have some closure and this would help a great deal if the Air Force Board Review of Discharges grants my request.

FD 2006-00055



DEPARTMENT OF THE AIR FORCE
59th MEDICAL WING (AETC)

SEP 13 2004

MEMORANDUM FOR AMN: [redacted]

FROM: 759 MDSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse. The basis for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as Honorable, or Under Honorable Conditions (General), I am recommending that your service be characterized as General.
2. My reason for this action is on or about 12 Jan 04, you wrongfully used cocaine. As a result, you received an Article 15, dated 26 Jul 04 and your punishment was reduction to the grade of E-2, with a new date of rank of 26 Jul 04, and Forfeiture of \$668.00 pay per month for 2 months. Subsequently, an Unfavorable Information File was established.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction, or a higher authority, will decide whether you will be discharged or retained in the Air Force.
4. You have the right to counsel. Military Legal Counsel has been obtained for you. I have made an appointment for you to consult the Area Defense Counsel at Building 6119, on 14 Sep 04 at 0900 hours. You may consult civilian counsel at your own expense. If employed, civilian counsel must be readily available.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by (3 workdays) 16 Sep 04 unless you request and receive an extension for good cause shown. Your statements will be sent to the separation authority and will be made part of your case file that the separation authority will read.
6. 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. You have been scheduled for a medical examination. You must report to Wilford Hall Medical Center, Family Medicine Clinic, on 17 Sep 04 at 1500 hours with your medical, immunization, and dental records for the examination.
8. You have been scheduled for a Transition Assistance Program (TAP) briefing. You must report to the Family Support Center, Bldg 1249, 1561 Stewart Street, on 14 Sep 04 at 1400 hours for an appointment with Ms. [redacted]

9. 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 at the Commander's Support Staff.

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



Commander, 759 MDSS

Attachments:

1. AF Form 3070, dated 26 Jul 04 w/latch
2. AF IMT 1137, annotated