

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) 	GRADE AB	AFSN/SSAN
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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
					X
					X
					X
					X
					X

ISSUES A94.53	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 HE

HEARING DATE 28 Sep 2006	CASE NUMBER FD-2006-00070	
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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

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE:

Issue 1. The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received an Article 15 and a General Court Martial. He received an Article 15 for being derelict in the performance of his duties, underage drinking and bringing a female into Building 112 which resulted reduction of grade to airman with seven days of extra duty. The applicant also appeared before a General Court Martial in which he pled guilty to wrongful use of Ecstasy and making a false official statement to a Special Agent. He was sentenced on January 20, 2005 and confined for four months, forfeited pay and reduced in grade to airman basic. 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. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on March 20, 2002) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 USAF Hurlburt Field, FL on 11 May 05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Jan 83. Enlmt Age: 18 8/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-69, E-64, G-62, M-46. PAFSC: J1C231 - Combat Control Parachutist. DAS: 6 Oct 03.

b. Prior Sv: (1) AFRes 18 Sep 01 - 4 Mar 02 (5 months 17 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 5 Mar 02 for 4 yrs. Svd: 03 Yrs 02 Mo 07 Das, of which AMS is 02 yrs 11 months 01 day (excludes 3 months 6 days lost time).

b. Grade Status: AB - 20 Jan 05 (GCMO#11, 15 Mar 05)
Amn - 31 Mar 03 (Article 15, 31 Mar 03)
A1C - 19 Apr 02

c. Time Lost: 20 Jan 05 thru 26 Apr 05 (3 months 6 days).

d. Art 15's: (1) 31 Mar 03, Lackland AFB, TX - Article 92. You, who knew of your duties, on or about 22 Feb 03, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol under the legal age of 21, as it was your duty to do. You, who knew of your duties, on or about 7 Feb 03, were derelict in the performance of those duties in that you willfully failed to refrain from bringing a female into Building 112, as it was your duty to do. Reduction to Amn, and 7 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: None.

f. CM: General Court Martial Order No.11 - 15 Mar 05

CHARGE I: Article 112a. Plea: Guilty. Finding: Guilty.

Specification: Did, within the State of Florida, on or about 18 Apr 04, wrongfully use 3, 4-methylenedioxymethamphetamine (Ecstasy), a Schedule I controlled substance. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 107. Plea: Guilty. Finding: Guilty.

Specification: Did, within the State of Florida, on or about 19 Apr 04, with intent to deceive, make to Special Agent [] an official statement, to wit: "I have never used drugs while on active duty in the Air Force," or words to that effect, which statement was totally false, and was then known by the said Airman [] to be so false. Plea: Guilty. Finding: Guilty. Sentence adjudged on 20 Jan 05: Confinement for 4 months, forfeiture of all pay and allowances, and reduction to the grade of AB.

g. Record of SV: None.

h. Awards & Decs: NDSM, GWOTSM, AFOUA, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (04) Mos (19) Das
TAMS: (02) Yrs (11) Mos (01) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 7 Feb 06.
(Change Discharge to Honorable)

Issue 1: I am trying to better my life by going to school but I am having financial troubles. If I were to have a completely (sic) honorable discharge then I would be entitled to my MGIB Benifets (sic) which would help me to achieve my goals.

ATCH

1. DD Form 214.
2. AF Form 100.
3. College Transcript.

29MAR06/ia

FD 2006-00070



DEPARTMENT OF THE AIR FORCE
16TH SPECIAL OPERATIONS WING (AFSOC)
HURLBURT FIELD FLORIDA

3 MAY 05

MEMORANDUM FOR AB: [REDACTED]

FROM: 720 OSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically, for drug abuse. The authority for this action is AFD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.54. If my recommendation for discharge is approved, your service will be characterized as honorable or general. I am recommending your service be characterized as general.

2. My reason for this action is based on the following:

You did, within the state of Florida, on or about 18 April 2004, wrongfully use 3, 4-methylenedioxymethamphetamine (Ecstasy), a schedule I controlled substance. Additionally, on 19 April 2004, with an intent to deceive, you made an official statement, to wit: "I have never used drugs while on active duty in the Air Force," or words to that effect, which statement was totally false.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Courts-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

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 your counsel at DSN 722-5345 on 3 May 05 at 1000 hours, speak to TSgt: [REDACTED]

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three workdays unless you request and 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 on your own behalf, your failure will constitute a waiver of your right to do so.

7. You are scheduled for a medical examination and you should report to the Hurlburt Clinic, Flight Medicine at 1400 hrs on 3 May 05 for the examination with Dr. [REDACTED]

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 at the unit orderly room.



Commander

Attachments:

1. General Court Martial Order No. 11, dtd 15 Mar 05 (2 pp)
2. Copy of Notification Memorandum w/atchs
3. Airman's receipt of notification memorandum