

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	X	PERSONAL APPEARANCE	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	UOHC	OTHER	DENY
[]					X
[]					X
[]					X
[]					X
[]					X

ISSUES A93.23 A94.05 A00.29 A93.09	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 07 Nov 2006	CASE NUMBER FD-2006-00169	
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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 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: 11/10/2006
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-2006-00169

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 07 Nov 2006.

The following additional exhibits were submitted at the hearing:

- Exhibit #5: Applicant's statement
- Exhibit #6: 2 Drug Tests completed on 8 Apr 05 and 11 Jul 06
- Exhibit #7: 5 Character Reference Letters
- Exhibit #8: EPR dated 15 Jul 03
- Exhibit #9: 3 College Transcripts

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 based on the difficulties in his life that led to his misconduct (i.e., Adjustment Disorder with Depressed Mood, work stressors/supervisor discrimination, marriage difficulties, and financial problems). The records indicated the applicant received an Article 15 for wrongfully using marijuana on divers occasions between o/a 23 Mar 04 and o/a 1 Jun 04, two Letters of Reprimand for failing to attend two separate M-16 trainings, and two Letters of Counseling for failing to maintain his Consolidated Tool Kit and failing to bring his PT gear to work, as ordered. The Board concluded that although the LORs and LOCs were for relatively minor misconduct, the use of marijuana was a significant departure from conduct expected of all military members. As such, although the member may have been experiencing a lot of stressors in his life at the time, the DRB opined that drug abuse cannot be tolerated under any circumstances and the previous characterization of the discharge (General) received by the applicant was found to be appropriate.

Issue 2. Applicant states that his discharge did not take into account the good things he did for the OSI while in the service. The DRB took note of the applicant's work with the OSI as an informant, however, they found the seriousness of the willful misconduct and the divers use of marijuana (documented by the levels of THC in his system found in both tests) 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 3. 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) 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**

FD2006-00169A

[REDACTED] (Former AB) (HGH A1C) (REHEARING)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Elmendorf AFB, AK on 27 Aug 04. UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse) Appeals for Honorable Discharge.

2. **OTHER FACTS:**

a. See attached cy of Examiner's Brief dtd 20 Jul 05.

b. The AFDRB reviewed case on 04 Jan 06 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. **BASIS ADVANCED FOR REHEARING:** Appl (DD Fm 293) dtd 19 Apr 06. (Change Discharge to Honorable)

Issues: I feel my discharge was discriminatory due to the treatment I received from a TSgt. He did not like me, so he made things difficult for me. I never had any reprimands until he arrived at my squadron. Due to a mental breakdown along with an unhappy marriage and financial burden, I made a bad assessment and wrongfully used marijuana. I tried to make an amends for my mistake by working with OSI as an informant. I went as far as taking a polygraph and by their profiling they considered me creditable. My main reason for wanting an upgrade is because I want to reap the benefits of the MGI Bill to help pay for the school that I am currently enrolled in.

Atch

1. Three Character References.
2. Record of Life Skills.
3. Address Change Notification.

8JUN06/ia

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former AB) (HGH A1C)

MISSING DOCUMENTS



1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Elmendorf AFB, AK on 27 Aug 04 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 27 Apr 82. Enlmt Age: 19 5/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-61, E-70, G-68, M-65. PAFSC: 2A753 - Aircraft Structural Maintenance Journeyman. DAS: 25 Jul 02.

b. Prior Sv: (1) AFRes 28 Sep 01 - 07 Jan 02 (03 months 11 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Jan 02 for 6 yrs. Svd: 2 Yrs 7 Mo 20 Das, all AMS.

b. Grade Status: AB - 15 Jul 04 (Article 15, 15 Jul 04)
A1C - 22 Feb 02

c. Time Lost: None.

d. Art 15's: (1) 15 Jul 04, Elmendorf AFB, AK - Article 112a. You, did, on divers occasions between on or about 23 Mar 04 and on or about 1 Jun 04, wrongfully use marijuana. Reduction to AB, 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: (Examiner's Note: The following infractions are missing from the file and were taken from the Notification Memorandum)

- LOR/UIF, 12 MAY 04 - Failure to attend M-16 training.
- LOC, 21 APR 04 - Failure to bring personal training gear to work as ordered.
- LOR, 08 MAR 04 - Failed to attend M-16 training.
- LOC, 09 JUL 03 - Dereliction of duty.

f. CM: None.

g. Record of SV: (Examiner's Note: The following performance report is missing from file and has been taken from the Recommendation for Discharge.)

08 Jan 02 - 5 Jul 03 Elmendorf AFB 5 (Initial)

h. Awards & Decs: NDSM, AFOUA, AFOSLTR.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (01) Das
TAMS: (02) Yrs (07) Mos (20) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 15 Apr 05.
(Change Discharge to Honorable)

Issue 1: Was having marital and finance issues at time of discharge. Also, would like to go to school on MGI Bill, but only can do with Honorable discharge.

ATCH

None.

20JUL05/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

PD 2006-00169

JUL 30 2004

MEMORANDUM FOR AB: _____, 3 EMS

FROM: 3 EMS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for drug abuse, specifically, marijuana. The authority for this action is AAFP 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending your service be characterized as general
2. My reasons for this action is: Between 23 Mar 04 and 1 Jun 04, you wrongfully used marijuana. Following a random drug test on 23 Apr 04, you tested positive for Tetrahydrocannabinol (THC), with a level of 50 ng/ml. The DoD cutoff for a positive drug test is 15 ng/ml. Also, on 1 Jun 04, you voluntarily consented to submit a urine sample. The sample tested positive for THC, with a level of 49 ng/ml. For your illegal drug use, you received Article 15 punishment, dated 15 Jul 04, consisting of a reduction to the rank of airman basic, 45 days extra duty, and a reprimand. This Article 15 was filed in your Unfavorable Information File (UIF) (Attachment 1 & 7).
3. Though not used as a basis for this discharge action, the following will be forwarded to the separation authority for review in consideration of your service characterization:
 - a. On 30 Jun 03, you failed to ensure the Consolidated Tool Kit (CTK) had all tools accounted for. On 8 Jul 03, you failed to return the CTK to the main building and failed to ensure the CTK had all tools accounted for. For your misconduct you received a Letter of Counseling (LOC), dated 9 Jul 03 (Attachment 2).
 - b. On 4 Mar 04, you failed to attend M-16 weapons training. For your misconduct you received a Letter of Reprimand (LOR), dated 8 Mar 04 (Attachment 3).
 - c. On 21 Apr 04, you failed to bring your personal training (PT) gear to work as ordered for squadron PT. You had to leave your duty section early to retrieve your PT gear from home. By leaving early, you caused a strain on the section and your co-workers. For your misconduct you received an LOC, dated 21 Apr 04 (Attachment 4).
 - d. On 12 May 04, you failed to attend M-16 weapons training. For your repeated misconduct you received an LOR, dated 12 May 04. This LOR established your UIF (Attachment 5 & 7).

e. On 1 Jun 04, you were advised by Lt Col: [redacted], 3 EMS/CC, of your non-recommendation for promotion to the grade of senior airmen, due to serving on a control roster and the establishment of a UIF (Attachment 6).

4. 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 are discharged or retained in the Air Force, and if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force, and any special pay, bonus, or education assistance funds may be subject to recoupment.

5. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Cap[redacted] 552-3887, at Bldg 10480, Room 330 on 30 July 04 at 1000. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three duty days after the date of this letter unless you request and receive an extension for good cause shown. I will forward any statements you provide to the separation authority.

7. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

8. You have been scheduled for medical examinations. You must report, with your medical records, to the 3rd Aerospace Medicine Squadron, Bldg 5595, at 0930 on 2 Aug 04 for your first exam, at which time you will be notified of the time for your second exam. Bring with you the Medical Assessment Letter (DD Form 2697). You are to refrain from alcohol for 72 hours, and refrain from the use of tobacco products for 6 hours, prior to examination. Bring eyeglasses (and contact solution if using contacts) if applicable. You must be in uniform for these examinations.

9. You have been scheduled for a Transition Assistance Program briefing. You must report to the Family Support Center at 4 Aug 04 on 0830. You have also been scheduled for a TMO Household Goods Shipment preprocessing briefing. You must report to Bldg 8517 (People Center), Room 247 at 5 Aug 04 on 1000. You must be in uniform for all appointments.

10. 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 your Squadron Orderly Room.



Commander

Attachments:

1. AF Form 3070, 15 Jul 04
2. LOC, 9 Jul 03
3. LOR, 8 Mar 04
4. LOC, 21 Apr 04
5. LOR, 12 May 04
6. Non-recommendation for promotion, 1 Jun 04
7. AF Form 1137