

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AB

TYPE UOTH

PERSONAL APPEARANCE

X

RECORD REVIEW

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

A01.13
A94.05

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

26 Jan 2007

CASE NUMBER

FD-2005-00416

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: 2/6/2007

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**FD-2005-00416**

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 received a UOTHC for Misconduct--Drug Abuse.

ISSUE 1: Applicant contends that his discharge was too harsh for a one time use of marijuana and does not meet the standard for UOTHC per AFI 36-3208, para 1.18.3. The records indicate the applicant received two Article 15s for: 1) failing to report for duty and incapacitation of performance of duties because of overindulgence of intoxicating beverages and 2) the wrongful use marijuana. The records indicate that the member started on ADAPT but did not complete the program. Records show the commander's recommendation for a UOTHC discharge was made based on behavior which, "constitutes a significant departure from the conduct expected of airmen" (AFI 36-3208, para 1.18.3). The records also show that the member was offered an administrative discharge board but waived his right to a hearing. After review of the record, the Board found no inequity or impropriety with the original decision and finds the characterization of the discharge to be appropriate.

ISSUE 2: Applicant contends that the facts don't support the discharge. He contends that the only evidence against him was a positive urinalysis result which had to be retested. He contends that his sample was never run again but only a readjustment of the computer which resulted in a positive for THC in his urine. He states the results are inconclusive and should be inadmissible. Records indicate that member tested positive for THC at 62ng, four times above the DoD standard. His sample was reprocessed because the machine integrated the smaller peak level in the sample vice the large peak it's supposed to process, causing skewed results. The sample was reprocessed the following day with a repeat positive result. The member submitted a statement on his behalf but did not appeal. 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

[REDACTED] (Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF Charleston AFB, SC on 20 Jul 05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 21 Jan 83. Enlmt Age: 19 9/12. Disch Age: 22 5/12. Educ: HS DIPL. AFQT: N/A. A-65, E-68, G-51, M-65. PAFSC: 2A656 - Electronic Environmental Systems Journeyman. DAS: 21 Nov 03.

b. Prior Sv: (1) AFRes 8 Nov 02 - 5 May 03 (5 months 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 6 May 03 for 6 yrs. Svd: 02 Yrs 02 Mo 15 Das, all AMS.

b. Grade Status: AB - 7 Jun 05 (Article 15, 7 Jun 05)
Amn - 11 Jan 05 (Article 15, 11 Jan 05)
A1C - 20 Jun 03

c. Time Lost: None.

d. Art 15's: (1) 7 Jun 05, Charleston AFB, SC - Article 112a. You, did, within the continental United States, between on or about 12 Feb 05 and on or about 12 Apr 05, wrongfully use marijuana. Reduction to AB. Suspended forfeiture of \$617.00 pay per month for 2 months. Restricted to the limits of Charleston AFB, SC for 20 days. (Appeal/Denied) (No mitigation)

(2) 11 Jan 05, Charleston AFB, SC - Article 134. You, were, on or about 1 Dec 04 and on or about 23 Dec 04, as a result of wrongful previous overindulgence in intoxicating liquor or drugs incapacitated for the proper performance of your duties. Article 86. You, did, on or about 1 Dec 04 and on or about 23 Dec 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 709. Reduction to AB (below Airman suspended). Restricted to the limits of Charleston AFB, SC for 14 days, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 6 May 03 - 23 Feb 05 Charleston AFB 3 (Initial)REF

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

i. Stmt of Sv: TMS: (02) Yrs (08) Mos (13) Das
TAMS: (02) Yrs (02) Mos (15) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 16 Aug 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Memorandum for Separation Authority, AFLSA/ADC, 27 Jun 04.

6DEC05/ia

01 NOV 2005

FD 2005-00416

CC

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ☐ ARMY ☐ MARINE CORPS ☐ NAVY ☒ AIR FORCE ☐ COAST GUARD

b. NAME (Last, First, Middle Initial)

c. GRADE/RANK AT DISCHARGE

d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION

(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)

20050720

4. DISCHARGE CHARACTERIZATION RECEIVED (X one)

☐ HONORABLE

☐ GENERAL/UNDER HONORABLE CONDITIONS

☒ UNDER OTHER THAN HONORABLE CONDITIONS

☐ BAD CONDUCT (Special court-martial only)

☐ UNCHARACTERIZED

☐ OTHER (Explain)

5. BOARD ACTION REQUESTED (X one)

☐ CHANGE TO HONORABLE

☒ CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS

☐ CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)

☐ CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION

437 AMXS

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

A UOTHC is not fair because one time marijuana use does not meet the standard required for a UOTHC. As per AFI 36-3208, para. 1.18.3.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) 20050816

AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)

Memorandum for Separation Authority from AFLSA/ADC (Capt.)

Memorandum for Separation Authority from AB

9. TYPE OF REVIEW REQUESTED (X one)

☒ CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.

☐ I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.

☐ I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL (Select to enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10. a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS

(counsel/representative)

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13. a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

☐ SPOUSE ☐ WIDOW ☐ WIDOWER ☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ OTHER (Specify)

12. a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE

(Forward notification of any change in address.)

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

CASE NUMBER
(Do not write in this space.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11, above)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

20050816

FD 2005-00416

DD FORM 293, AUG 2003

PREVIOUS EDITIONS ARE OBSOLETE.

Page 1 of 4 Pages



Edmunds, Chase, A
Assigned To: Hill, Joyce
Receipt Date: 2005/08/09



EDMUNDS, CHASE, A
543-27-0311
Receipt Date: 2005/08/09

16 August 2005

MEMORANDUM FOR SEPARATION AUTHORITY

ARGUMENT/CONTENTIONS

FROM: AB: [REDACTED] 437 AMXS

1. I waived my right for a board hearing for an Under Other Than Honorable Conditions discharge (UOTHC) rather than face a court-martial for the use of marijuana on one occasion. Even though I agreed to waive my right for a court-martial hearing, I did not agree to a UOTHC discharge. I feel that the facts stated in my case do not support this discharge, and so warrants a general discharge.

2. The only evidence against myself is a positive urinalysis result. Which was tested on a machine that was recalibrated more than 3-4 times to have correct readings—maybe. Which warrants a general discharge.

3. On the tests of my sample, the machine was supposedly correct once out of the 4-5 times that it was tested. Which warrants a general discharge.

4. When my sample was run, it initially gave a result that was totally wrong – almost 3,000 ng/ml. That warrants a general discharge.

5. My sample was never run again. Which warrants a general discharge.

6. Instead, the lab readjusted the computer that reads the results, which yielded the result of 62 ng/ml. Which warrants a general discharge.

7. These results are inconclusive and I believe they should be inadmissible. As you can see the evidence for this discharge is unlawful. Which warrants a general discharge.

8. A UOTHC is unjust because one time marijuana use does not meet the standard required for a UOTHC. As per AFI 36-3208, para. 1.18.3., a UOTHC is appropriate in the following examples: violence resulting in serious bodily injury or death; abuse of a special position of trust; unprofessional relationship by a superior; endangering the security of the United States, endangering the health and welfare of service members or civilians. Using marijuana one time does not compare with the examples of a UOTHC. It is much more closely related to the language of a general discharge and should be treated so. There is no language contained in AFI 36-3208 that says that a discharge for drug use should be a UOTHC. Which warrants a general discharge.



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 437TH AIRLIFT WING (AMC)

PD 2005-00 416
JUN 28 2005

MEMORANDUM FOR AB: [REDACTED] 437 AMXS

FROM: 437 AMXS/CC

SUBJECT: Notification Memorandum - Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct: Drug Abuse. The authority for this action is AFPD 36-32 *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, 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: Between on or about 12 February 2005 and on or about 12 April 2005, you wrongfully used marijuana, for this offense, you received nonjudicial punishment that closed out 15 June 2005 (Attachments 1, 2, and 3).

3. Other Derogatory Data:

a. On or about 1 Dec 04 and 23 Dec 04, you failed to go at the time prescribed to your appointed place of duty and when you arrived you were incapacitated for duty because of a wrongful previous overindulgence in intoxicating liquor. For these offenses you received an Article 15 that closed out on 14 Jan 05. (Attachment 4).

4. This action could result in your separation with a characterization of Honorable, Under Honorable Conditions (General), or Under Other Than Honorable Conditions (UOTHC) Discharge. I am recommending that you receive an Under Other Than Honorable Conditions (UOTHC) Discharge. The commander exercising special court-martial 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 United States Air Force and will probably be denied enlistment in any component of the armed forces and any special pay, bonus, or education assistance funds you received may be subject to recoupment.

5. 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 the board hearing.
- d. Submit statements in your 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 waive any of your rights.

6. You have been scheduled for a medical examination. You must report to MDG on 23 Jun 05, at 0750 hours for the examination.

7. You have been scheduled for a Transition Assistance Briefing at the Family Support Center, Bldg 255, on 22 Jun 05, at 0830 hours.

8. You have been scheduled for a separation briefing at Personnel Relocations, Bldg 503, on 20 Jun 05, at 1500 hours

9. 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 Captain: _____ at Bldg 503, on 21 Jun 05, at 1030 hours. 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, *Administration of Military Justice*. In addition to military counsel, you have the right to employ civilian counsel. The Military Component does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

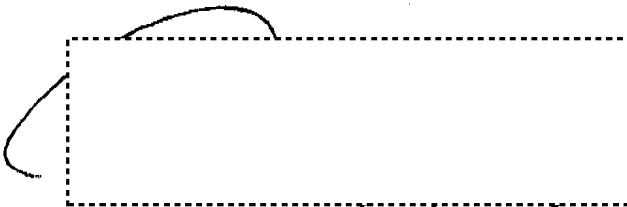
10. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel, who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your 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.

11. 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 437 AMXS Orderly Room.

12. 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.

13. If you have received advanced educational assistance, special pay, or bonuses, and have not completed the period of active duty you agreed to serve, you may be subject to recoupment.

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


Commander

Attachment

1. Article 15, dated 15 Jun 05 w/attachments
2. Medical Review Letter, dated 20 Apr 05
3. Explanation of drug testing repossessing, dated 2 Jun 05
4. Article 15, dated 14 Jan 05 w/ attachments