

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%;"></div>	GRADE SRA	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE UOTH	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			+ *
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ISSUES 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 15 Mar 2007	CASE NUMBER FD-2006-00071	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.

+ Change of reenlistment eligibility code is denied.
* Change of reason and authority is denied.

INDORSEMENT		DATE: 3/16/2007
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-2006-00071

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants partial relief. The discharge is upgraded to general. However, change of reason and authority for discharge and change of reenlistment code are denied.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an inequity that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the characterization of the discharge improper.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received an Under Other Than Honorable Condition (UOTHC) discharge from the United States Air Force Reserve for drug abuse. The record indicates that the member tested positive for Methamphetamines during a random urinalysis, with a result of 2525 ng. Following a review of all available facts and evidence in this case, the Board found sufficient mitigation to substantiate upgrade of the discharge to General. In accordance with, Air Force Instruction (AFI) 36-3209, Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members, Attachment 2.2.3, "conduct in the civilian community of a member not on active duty or active duty training may be used to characterize service as UOTHC only if the conduct affects the performance of military duties." The Board opined that the applicant's conduct did not affect the performance of his military duties at that time. In addition, AFI 36-3209, paragraph 3.24, states that all UOTHC cases require Secretary of the Air Force approval and must be referred to the Air Force Personnel Council for review. In this case, the member's discharge package was not forwarded. Therefore, the Board agreed that the discharge characterization be upgraded to General. However, the Board found no evidence of inequity or impropriety to substantiate upgrading the reason and authority or the reenlistment code.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was inconsistent with the procedural and substantive requirements of the discharge regulation; it was not within the discretion of the discharge authority and the applicant was not provided full administrative due process.

In view of the foregoing findings, the Board concludes that the overall quality of applicant's service is more accurately reflected by a General discharge; the Board concluded that there existed no legal or equitable basis to change the reason and authority or the reenlistment code, therefore no changes were made in those areas.

Attachment:
Examiner's Brief

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

(Former SrA) (HGH TSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAFR March ARB, CA on 11 Oct 05 UP AFI 36-3209, para 3.21.3.2 (Commission of a Serious Offense - Drug Abuse). Appeals for an Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 28 Aug 49. Enlmt Age: 20 0/12. Disch Age: 56 1/12. Educ: HS DIPL. AFQT: N/A. A-67, E-73, G-64, M-82. PAFSC: 2T171 - Vehicle Operator Dispatcher Technician. DAS: 25 May 85.

b. Prior Sv: (1) Enlisted USAF on 27 Sep 68 for 4 yrs. Svd: 3 yrs 11 months 7 days, all AMS.

(2) USAFRes from 4 Sep 73 thru 26 Sep 74. Svd: 1 yr 0 months 22 days (Inactive).

(3) USAFRes from 25 May 85 thru 11 Oct 99. Svd: 13 yrs 4 months 16 days, of which AMS is 8 months 6 days. Amn - Unknown. A1C - Unknown. Sgt - 1 Aug 71. SSgt - 1 Jul 87. TSgt - 1 Dec 97. EPRs: 2 (REF).

3. **SERVICE UNDER REVIEW:**

a. Reenlisted USAFRes as TSgt 12 Oct 99 for 6 yrs. Svd: 05 Yrs 11 Mo 29 Das, of which AMS is 5 months 12 days.

b. Grade Status: SrA - 25 Mar 05 (Demotion Order ROAA-012, 6 Apr 05).

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 24 May 98 - 24 May 00 March ARB 3 (Biennial)
25 May 00 - 24 May 02 March ARB 3 (Biennial)
25 May 02 - 24 May 04 March ARB 3 (Biennial)

h. Awards & Decs: SAEMR, AFPUC, AFLSAR W/3 DEVS, AFOUA W/2 DEVS, NDSM W/1 DEV, AFOSSTR, AFTR, VSM, RVNCR, AFAM, AFGCM, AFTR.

i. Stmt of Sv: TMS: (20) Yrs (05) Mos (08) Das
TAMS: (05) Yrs (00) Mos (26) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 05 Feb 06.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Memorandum For Lt Col [REDACTED], Legal Errors and Appellate Concerns In RE Temple, 4 Oct 05.
3. Memorandum For Member of the Board - Administrative Discharge Board.
4. Personal Statement.
5. Memorandum For HQ AFRC/DSJA (Col [REDACTED]), Burden Shifting, 29 Sep 05.
6. Email Correspondence.
7. Memorandum For Members of the Panel.
8. Email Correspondence.
9. None Character References.
10. AF IMT 1168.

30MAY06/ia

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

Sir, I'm very proud of my service to my country and the United State Air Force Reserves. Never in all my years received any LOR, LOC or Article 15. I know my food was tamper with at the Denny's restaurant. I run into many ex-inmates all the time. These are not nice people. They plan "Pay-Backs" all the time to get even with staff. This is not the first time I had problems after these people are released from custody. My vehicle has been vandalized before, most recently after 9-11, while doing mom-duty at the base. My supervisor can test to that. I want to return to my unit and be sent over to Iraq or anywhere my country needs me. Thank you!

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

<p align="center">ARMY</p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p>	<p align="center">NAVY AND MARINE CORPS</p> <p>Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>
<p align="center">AIR FORCE</p> <p>Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p align="center">COAST GUARD</p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p>

1 February 2006



Board for Correction of Military Records
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

Re: Legal Errors and Appellate Concerns In Re Temple.

To Whom It May Concern:

Please accept this letter as my request for you to review my involuntary administrative discharge from the Air Force Reserves (Reserves) on 28 September 2005. I am requesting reinstatement in the Reserves due to the number of legal and procedural errors that occurred before and during this hearing that prohibited me from a fair and impartial hearing. Due to the relief requested, I did not appeal the findings to the Air Force Discharge Review Board. At the date of hearing, I was a 25 year veteran of our Air Force; my End of Term Service (ETS) was 15 October 2005.

On 26 June 2005, I, then TSgt: [REDACTED] provided a urine sample in response to a random drug test pursuant to the Air Force Drug Reduction Program. This sample tested positive for 2525 N/g of Methamphetamine (Meth) at the Brooks Laboratory at Lackland AFB, San Antonio, TX. Following an involuntary reduction to the rank of Senior Airman, An involuntary discharge was initiated pursuant to AFI 36-3209, Chapter 3, para 3.21.3.2. The sole issue at the discharge hearing was to determine whether I wrongfully used Meth.

I am a 56 year-old grandfather and 25 year veteran of the Air Force (with a break in service) who served honorably in Vietnam from 1968-1970. I have a spotless record of service and no history of prior drug use. On 28 September 2005 a panel of officers substantiated the basis for discharge, discharging me from the Reserves with an Under Other Than Honorable Conditions (UOTCH) service characterization. This particular hearing was fraught with numerous legal and procedural errors that give rise to my appeal. Specifically, this memorandum cites five errors that warrant the BCMR to reinstate me to the Reserves and allow me to continue my faithful and honorable service until age 60.

Due to the timing of my ETS and the date of the discharge board, my attorney, Capt [REDACTED] found resistance and a combined effort to streamline this discharge without giving due consideration to his points raised in appeal. For example, Capt [REDACTED] went TDY to Colorado the Monday following the hearing, and a verbatim transcript was not made available before he left. Then, the Legal Office and SJA, Col [REDACTED], gave him three days to submit any matters for the discharge authority's review. His request for an extension to submit such matters upon his return and to view the transcript was denied.

Additionally, Capt: [redacted] told me that he works for the SJA, Col: [redacted] Col: [redacted] is his rater and supervisor. I was told that all other Air Force defense counsel have a detached and separate chain of command that report directly to Air Force Legal Services Agency, in Washington, DC. Why does the defense counsel for all of the Air Force Reserve command report to the one person who he is working against? This doesn't sound fair. I will address each error in turn.

Investigative reports were not made available to the Respondent during the discovery phase of this hearing. As the attached email between Government's Counsel and Capt: [redacted] shows, a Report of Investigation (ROI), agent notes and a key email were never given to me during the discovery phase of this proceeding. In order to conduct a fair and open hearing, the Government is required to disclose all evidence and materials that may be exculpatory in nature. In the judicial forum, failing to disclose pieces of information have been grounds for mistrial or even appellate courts reversing convictions. In this case, the Government's Counsel entered into evidence both a copy of an AF Form 1168 in which I requested counsel, and supporting agent notes. These documents were not made available until the day before the hearing when they were submitted to my counsel with roughly 150 other pages of previously disclosed information. This information was copied and attached in the middle of the relevant Drug Report; they were not there when previously disclosed and my counsel had no reason to re-read the technical and lengthy Drug Report.

Ultimately, the Respondent's counsel should have seen these documents prior to hearing, but the method of disclosure and timing violate any opportunity to reasonably investigate their substance. More importantly, the method in which they were disclosed gave rise to their ultimate admission into evidence, which, in turn, allowed the members to view my request for counsel. This legal error will be more specifically addressed in paragraph 9. According to my attorney, in this hearing, these documents were absolutely irrelevant and only served to tell the members that "I had something to hide", which I didn't. I just remember briefings and television about my right to speak with an attorney before questioning and that's all I did. Had I have known it would be used against me, I would have told the investigators the same thing I told the panel members.

More egregious is the recently discovered email that could have proved a key element in my defense. On the day I provided a urine sample, I wasn't feeling well. I was feeling sick hours before I tested. When I arrived at the hospital on base to provide a urine sample, I asked to speak with a doctor. I saw a doctor before I tested and eventually provided a urine sample, freely and without an issue because I never thought it would come back positive. After I provided the sample, I was taken to the local VA hospital to be seen. When I arrived, I waited for hours and was never seen. During the time I was waiting, I started to feel better and decided to leave.

During their case-in-chief, the Government's Counsel made the argument that when I went to the VA Hospital for medical care, I left after arriving and without being seen by a doctor; implying that I only went to make myself look better and left early because I wasn't really sick. (*Transcript at 35*). This argument seemed to support the Government's position that I was faking my feeling sick at the Drug Reduction Testing Center in order to avoid providing a urine sample. Fortunately, I knew of a witness, TSgt: [redacted], who was able to rebut that assertion at the hearing. During her testimony, TSgt: [redacted] stated that when she dropped the Respondent at

the VA Hospital, she waited for awhile, and then left to pick up her children. She eventually returned with her children and continued to wait for the Respondent to be seen by medical personnel. She testified that the Respondent ultimately waited around 2 - 2½ hours before leaving. This issue first arose during the hearing.

The email in question has an excerpt from the VA Hospital showing that I actually waited for about two hours and left after complaining that there were children waiting in the car. As my attorney's email to Government's Counsel dated 30 September 2005 shows, this email was not provided until after the hearing. This email would have proved a key element to the my defense by corroborating the fact that consistent with his position, he did arrive at the VA Hospital and waited for a few hours before leaving - that I didn't just show up and then leave. Additionally, it would have corroborated TSgt: [redacted] testimony that she arrived with her children and waited for the Respondent. Without this document, the panel members were left with simply weighing the credibility of the witnesses without further corroborating evidence - evidence that was available to the Government but not disclosed to my attorney. This becomes even more important due to the fact that my attorney said that this "illness" issue was the only piece of evidence the Government had in proving that my client wrongfully used Meth.

During the voir dire phase of the hearing, one of the panel members stated that he would require me to prove my innocence. The burden to substantiate the basis for discharge rests solely with the Government. At no time does this burden shift to the Respondent. In other words, I do not have to prove or even provide evidence of my innocence.¹ However, during my attorney's questioning of the panel, he asked the question, "do any of you feel that my client has to prove to you that he deserves to stay in the Air Force?" (*Transcript at 11*). In response to this question, two of the three members stated that they would require my client to prove his innocence. Upon further clarifying questions, one of the members, a Major, backed off his earlier opinion and stated that he would hold the government with the burden of proof. However, the other member, Lieutenant Colonel: [redacted] repeatedly demonstrated his need for me to provide him with answers to questions that he might have. Apparently, it was evident enough that the Legal Advisor was forced to intervene and ask a few questions himself, where in response the member eventually backed off his position. However, it was evident that his body language and answers showed that he was truly unable to sit through the proceeding without me proving my innocence. My attorney's challenge for cause was denied. Allowing this member to sit in judgment of my client violated his constitutional right to a fair and impartial hearing because as will be explained below, the Government shifted the burden in this case.

During testimony of the Government's expert witness, Government's Counsel shifted the burden of proof by telling the members that I did not independently test my urine sample. During examination of the Government's Expert Witness, Government's Counsel asked questions about testing the urine sample after tests at Brooks Lab were concluded. (*Transcript at 46*). The questioning went as follows:

- A. Once a sample has been determined to be positive for a specific drug, then that sample is placed in frozen storage for at least 1 year.

¹ There is one exception in a discharge hearing concerning a Respondent proving that his drug use was merely experimental. There are seven criteria that the Respondent must demonstrate in order to stay in the Reserves after using drugs, however, this was never an issue or argument in this hearing.

The Government, and Government alone, bears the entire burden of proof in establishing a basis for discharge. By allowing the Government to ask whether I independently tested the urine sample that contained Meth, the question, and more importantly the answer, tells the members that if 'I am so innocent, why didn't I prove it?' There is no logical or legal justification in allowing this question and answer. I have absolutely no obligation to test my own urine sample and can rely on the Government to attempt to prove their case. By being allowed to argue and actually state that my client did not "prove his innocence", Government's Counsel planted an insurmountable obstacle that violated my constitutional rights.

Government's Counsel submitted into evidence an AF Form 1168 wherein I invoked my right to counsel. The same AF Form 1168 discussed above was entered into evidence. As indicated above, this form was not provided my attorney until the day before trial and was coupled with roughly a 150 other pages of previously provided documents. This one-page form was used by interrogators when they attempted to question me following my positive urine sample. In the bottom of the form, I requested legal counsel and the interview was terminated. An Air Force member, as does any member of our society, has the constitutional right to request an attorney when faced with police questioning. This request for an attorney may never be used against the member in any form or fashion, especially in this forum. This one-page form contained absolutely no substantive value and was merely a method for Government's Counsel to show the members that I "had something to hide" and if I didn't, I would have answered questions.

During closing argument Government's Counsel commented on my client's right to remain silent. In an attempt to demonstrate all the efforts undertaken in this case, Government's Counsel told the members in closing argument that I was questioned by investigators and requested counsel. He stated:

Also, after the sample came back positive, and after the medical review of the member's medical records was done; the government didn't stop there. You have the police report; investigators went out to the member, and at that point the member chose his right to remain silent; but the government did take that extra step.

(Transcript at 75)

Besides an undeniable constitutional violation, this comment typified the Government's attempts in shifting the burden of proof. Failing to disclose the AF Form 1168, then submitting the document into evidence, allowing Lt Col:.....: to sit on the panel, the question and answer of the expert and then this remark in closing arguments demonstrate a "board wide" systemic problem that placed me in the unique situation of actually having to prove my innocence.

Each of these issues standing alone would give pause for concern on whether I was afforded a fair and impartial hearing. But when seen as a collective whole, a continuing violation of my constitutional rights, that is when the true damage becomes visible. Starting with the Lieutenant Colonel who was allowed to sit on the panel who stated that he would require me client to prove my innocence. This sets the stage for disaster when the following legal errors come into play: the expert witness being allowed to show that I did nothing to test my urine

MEMORANDUM FOR: MEMBERS OF THE BOARD

FROM: [redacted]

RE: Administrative Discharge Board

My name is: [redacted] Please accept this letter as my testimony for your consideration in today's board. I am not a drug user and have never, ever taken any form of illegal narcotic. As you will hopefully understand, I am very proud of my 25 year military career and would never do anything so blatantly stupid to jeopardize my future.

I was born in Lynwood, California on 28 Aug 1949. I come from a prominent pioneer family, who settled in Southern California in 1827. My family opened up the first bank in Los Angeles. A city was named after my Uncle: [redacted]; Temple City in the County of Los Angeles.

I attended Excelsior High School in Norwalk, California from 1963-1967. I was 4 years varsity letterman and captain of the gymnastics team. I went as far as the finals of the California State Championships. During this period, I worked as a box boy at an Alpha Beta grocery store. I also maintained a high GPA. After high school I attended Fullerton Jr. College. My goal was to become a history teacher and gymnastics coach.

I have been married for 25 years. My wife, [redacted], has supported me through this entire ordeal. We share two wonderful sons. My oldest son, [redacted] is a TACP, and SSgt (select) in the USAF. I am also a grandfather of a little boy, [redacted] 5 years old.

I joined the United States Air Force on 23 Sept 1968. I wanted to serve my country and to continue a family tradition of proud military service that dates back to the First World War. After completing basic training, I was sent to Chute Air Force Base for tech school. After tech school, I was assigned to the 320th Bomb Group, (SAC) at Mather Air Force Base. I was an (AGE) Aerospace Ground Equipment Mechanic for the (FMS) Field Maintenance Squadron. In June of 1970 I received orders for Southeast Asia.

I was assigned to the 4th Air Command Squadron, Plieku AB, Republic of Vietnam. When my tour ended I requested to stay in Southeast Asia. My next assignment was in Thailand at Ubon RTAB (Royal Thailand Air Base). I was assigned to the 8th Tactical Fighter Wing. My tour ended in September of 1972. I eventually reached the rank of Buck Sergeant and was given an honorable discharge.

During my active duty career I received the following decorations: Air Force Good Conduct medal, National Defense Medal, Vietnam Service Medal with 2 campaign stars, Air Force Overseas Ribbon - short tour, Air Force Training Ribbon, Presidential Unit Citation, Small Arms Expert Marksmanship Ribbon, RVN Gallantry Cross with Palm and Republic of Vietnam Campaign Medal.

Thirteen years after active duty I decided to join the Air Force Reserves. I enlisted in June of 1985 and was assigned to March Air Force Base. I worked the flight line for the first couple of years. I transferred to the Transportation Squadron. I am a member of the 452nd Logistics Team. First as a Staff Sergeant on the dispatch desk. Later as a Tech Sergeant as NCOIC of the "B" (UTA) Unit Training Assembly. I am responsible for the Sergeants and Airmen in my shop. I prepare, maintain, and receive all motor vehicle operator inspection guides, forms and accident reports. I ensure compliance with all established safety polices and standards. I am also Unit Advisory Counsel Member, OJT Training Monitor, Weapons Custodian and Weapons Currier. On UTA weekends, I arrive a day early to support base operations by picking up the reservists that arrive via plane from Arizona and Nevada.

In my Reserve capacity, I have deployed to RAF Mildenhall, England, in support of NATO. I was called to active duty for Operation Desert Storm in support of base operations at March, ARB. For my effort I was awarded the Air Force Achievement Medal. I was the only member of my team to deploy to Moron AB, Spain, in response to 9-11. I was awarded a Certificate of Appreciation from the Deputy Commander, 496 ABS. I have been involved in Operation Iraqi Freedom and Operation Deep Freeze. On several occasions, at the request of Wing Commander, I have given PA tours of March ARB because of my extensive knowledge of the history of the installation.

As an Air Force Reservist, I have received the following decorations: Air Force Commendation Medal, Air Force Achievement Medal, Air Force Outstanding Unit Award with (2) oak leaf clusters, Air Reserve Forces Meritorious Service Medal with (4) oak leaf clusters, Defense Service Medal with (2) battle stars, Air Force Longevity Service Ribbon with (4) oak leaf clusters, Armed Forces Service Medal with hourglass device and M device. I have two medals pending, the Global War on Terrorism Expeditionary Medal and the Global War on Terrorism Service Medal.

I am currently employed in my civilian capacity with the Orange County Sheriff Department. I have held this position for 23 years. I work as a Correctional Officer and have been so employed for almost 22 years. My duties are to maintain control and custody of some of the most hardened criminals in the country. In our custody are murderers, drug dealers, rapists, hard core gang members and pedophiles. We are one of the maximum security facilities in California. My job does come with many dangers. Over the years I have ran into many ex-inmates at shopping malls, school plays, Little League games and restaurants. This is scary because you never know who may have an axe to grind against you.

Throughout my career with the Sheriff's department, I have been randomly selected for drug testing on at least two different occasions. Both test results came back negative. In addition, in December of 04', I was told by my employer to take an unexpected drug test. This was because of my Air Force drug test and was not planned. This, too, I passed. I've also been tested a number of times throughout my Air Force career all with negative results. When I learned of the recent test results, I was shocked and couldn't believe what I was being told.

On the morning of 26 Jun 04 and before my scheduled UTA, I went to the local Denny's restaurant for breakfast. I arrived a little before 0600 and ate my food around that time. I also had at least one cup of coffee. I arrived and ate my food while I was in my BDUs. After my breakfast, I arrived for my UTA at 0700.

I remember starting to feel sick to my stomach before I arrived for my UTA. I don't think it was because of my breakfast. The only thing I can think of is the Sushi I had the night before. I remember meeting TSgt [redacted] shortly after I arrived who asked if I was feeling well. She told me that I looked flushed, or red. I was notified of the random drug test about three hours later; this was the first time I learned of the test. When I was told to report, I just remember thinking that I didn't feel very well. When I reported to the center, I told them that I didn't feel well. At no time did I ever say that I couldn't or wouldn't take the test.

I would like to underline the fact that in all my years of proud military service, I have never received even a Letter of Counseling, Letter or Reprimand or Article 15. I am extremely proud of the time I have spent serving my country in war and peace, in both active duty and reserve duties.

Please accept my apologies for not being there at the hearing. Due to the cost of me traveling and being so short handed at work, I could not take the time off to attend in person. Also, I think it is important to let you know that my civilian job is aware of this pending discharge. The Air Force investigator who interviewed me following the test results actually contacted my employer and told them of the results. I was placed on non-paid administrative leave for months following my test with the Air Force. Losing this income, coupled with my inability to do my reserve time proved a financial hardship on my family. I also know that, unfortunately, the outcome of this administrative discharge will have a direct effect on my civilian position.

My enlistment is up on 15 Oct 05. I do desire to remain a member of the United States Air Force Reserves and would like to re-enlist. Please consider my whole career in the Air Force and the Reserves, all my awards and decorations, my accomplishments and dedication to my country, when deciding on recommending me for discharge. Not only would I never take drugs, I wouldn't do something so stupid to jeopardize my career. Please take my statements into consideration when you're deciding whether to discharge me.

Respectfully Submitted,

[Redacted Signature]

decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 Richard Ray Blvd, Robins AFB GA 31098-1635.

c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 Richard Ray Blvd, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. All evidence to be submitted to the board for the hearing in chief will be provided to the opposing party no later than five business days prior to the scheduled hearing. This includes a list of expected witness and a summary of expected testimony. Failure to comply may cause a delay or significant recess in the hearing. Information regarding an administrative discharge board is provided in Attachment 7.

5. Our records indicate you are eligible for transfer to the Retired Reserve. For your convenience, we have enclosed information on the Retired Reserve (Atch 8). If you wish to apply for transfer to the Retired Reserve in lieu of administrative discharge, complete and return the attached AF Form 131, Application for Transfer to the Retired Reserve, (Atch 9) to this office, within 15 days after you receive this memorandum. You should note that failure to return this application to this office within 15 days from the date of receipt of this memorandum will constitute a waiver of this option. Should you elect to apply for transfer to the Retired Reserve your application will require approval by the Office of the Secretary of the Air Force prior to discontinuance of administrative discharge action. If you are discharged in lieu of transfer to the Retired Reserve, you will not be eligible for transfer to the Retired Reserve, allowed to reenter the Air Force Reserve for the purpose of transfer to the Retired Reserve, and will only be entitled to retired pay and medical care at age 60.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute a waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes (Atch 10) are attached for your convenience.



**Deputy Chief, Military Personnel Division
Directorate of Personnel**

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/
Supporting Documentation
3. Acknowledgment/Receipt
4. Selection of Rights
5. Request/Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Retirement Information
9. AF Form 131
10. Envelopes (3)

cc:

**HQ AFRC/JAS
452 MSS/DPMSA (Relocations) wo Attachments**



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

APR 11 2005

MEMORANDUM FOR



FROM: HQ AFRC/DPM
155 Richard Ray Blvd
Robins AFB GA 31098-1635

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum, separation action is being initiated against you for misconduct, commission of serious offense, drug abuse. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.21.3.2. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions), and Under Other Than Honorable Conditions. The type of separation recommended in your case is an Under Other Than Honorable Conditions Discharge.
2. Within 24 hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.
3. The following is a summary of your rights:
 - a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no cost to you. You may also consult with civilian legal counsel of your choice, but at your own expense. Captain [redacted] a Judge Advocate who is qualified under Article 27(B)(1), UCMJ, has been designated to represent you in connection with this separation action. Her mailing address is HQ AFRC/JAS, 255 Richard Ray Blvd, Suite 227, Robins AFB GA 31098-1637. Her phone numbers are DSN 497-1588, Toll Free 1-800-458-5391, commercial (478) 327-1588, or fax commercial (478) 327-0032, fax DSN 497-0032.
 - b. You have the right to submit pertinent statements and/or documents in your behalf, which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your

decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 Richard Ray Blvd, Robins AFB GA 31098-1635.


c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 Richard Ray Blvd, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. All evidence to be submitted to the board for the hearing in chief will be provided to the opposing party no later than five business days prior to the scheduled hearing. This includes a list of expected witness and a summary of expected testimony. Failure to comply may cause a delay or significant recess in the hearing. Information regarding an administrative discharge board is provided in Attachment 7.

5. Our records indicate you are eligible for transfer to the Retired Reserve. For your convenience, we have enclosed information on the Retired Reserve (Atch 8). If you wish to apply for transfer to the Retired Reserve in lieu of administrative discharge, complete and return the attached AF Form 131, Application for Transfer to the Retired Reserve, (Atch 9) to this office, within 15 days after you receive this memorandum. You should note that failure to return this application to this office within 15 days from the date of receipt of this memorandum will constitute a waiver of this option. Should you elect to apply for transfer to the Retired Reserve your application will require approval by the Office of the Secretary of the Air Force prior to discontinuance of administrative discharge action. If you are discharged in lieu of transfer to the Retired Reserve, you will not be eligible for transfer to the Retired Reserve, allowed to reenter the Air Force Reserve for the purpose of transfer to the Retired Reserve, and will only be entitled to retired pay and medical care at age 60.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute a waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes (Atch 10) are attached for your convenience.


Deputy Chief, Military Personnel Division
Directorate of Personnel

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/
Supporting Documentation
3. Acknowledgment/Receipt
4. Selection of Rights
5. Request/Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Retirement Information
9. AF Form 131
10. Envelopes (3)

cc:

HQ AFRC/JAS
452 MSS/DPMSA (Relocations) wo Attachments