

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 A1C	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></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 A92.35 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 13 Mar 2007	CASE NUMBER FD-2006-00185
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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.

* Reason and Authority
+ Reenlistment Code

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT	DATE: 3/21/2007
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

CASE NUMBER

FD-2006-00185

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 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, 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 the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE:

Applicant contends discharge was inequitable because it was too harsh and based on one isolated incident in 46 months of service. The records indicated the applicant received an Article 15 for misconduct. The Article 15 was for wrongful use of marijuana. He was punished with a reduction in grade to Airman First Class and a suspended forfeiture of pay. The Board concluded the applicant's 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

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Langley AFB, VA on 01 Oct 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, to Change the RE Code, and the Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 23 Sep 78. Enlmt Age: 18 9/12. Disch Age: 22 0/12. Educ: HS DIPL. AFQT: N/A. A-45, E-41, G-52, M-37. PAFSC: 2S051 - Supply Management Journeyman. DAS: 20 Jun 98.

b. Prior Sv: (1) AFRes 26 Jun 97 - 11 Nov 97 (4 months 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Nov 97 for 4 yrs. Svd: 03 Yrs 10 Mo 20 Das, all AMS.

b. Grade Status: A1C - 28 Aug 01 (Article 15, 28 Aug 01)
SrA - 12 Nov 00
A1C - 12 Mar 99
Amn - 12 May 98

c. Time Lost: None.

d. Art 15's: (1) 28 Aug 01, Langley AFB, VA - Article 112a. You, did, between on or about 18 May 01, and on or about 18 Jun 01, wrongfully use marijuana. Reduction to A1C. Suspended forfeiture of \$644.00 pay. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 12 Nov 97 - 11 Jul 99 Langley AFB 4 (Initial)
12 Jul 99 - 11 Jul 00 Langley AFB 3 (Annual)
12 Jul 00 - 11 Jul 01 Langley AFB 4 (Annual)

h. Awards & Decs: AFTR, AFOUA W/1 DEV, AFGCM, AFEM.

i. Stmt of Sv: TMS: (04) Yrs (03) Mos (06) Das
TAMS: (03) Yrs (10) Mos (20) Das

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

Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Two Enlisted Performance Reports.
4. Superior Performance Report.
5. Good Conduct Medal.
6. Armed Forces Expeditionary Medal.
7. Two Certificates of Appreciation.
8. Certificate of Promotion.
9. Discharge Correspondence.
10. Five Letters of Support.

06JUL06/ia

MAY 10 2006

FD2006-00185

APPLICATION FOR THE REVIEW OF DISCHARGE 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 the Department of Defense, Executive Service and Communications Directorate (0704-0004). 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 ORGANIZATION. 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.

Form section 1: APPLICANT DATA. Includes fields for Branch of Service (Air Force checked), Name (Last, First, Middle Initial), Grade/Rank at Discharge (E-3), Social Security Number, Date of Discharge or Separation (2001 10 01), Discharge Characterization Received (General/Under Honorable Conditions checked), and Board Action Requested (Change to Honorable checked).

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.) So that DD214 and other official service documents reflect truth and not such a general, open to interpretation reason for separation as well as narrative reason. Also for suitable employment for a service-connected disability veteran. My discharge was inequitable because it was on one isolated and misinterpreted incident in 46 months service with no adverse action.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) 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.) DD214, Certificates, EPR's, Letters of Recommendation, Letter of Evaluation, Medals, and personal statement on Word Document. Memorandums from Squadron Commander.

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.

10. a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about 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.

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.) a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above) b. DATE SIGNED - REQUIRED (YYYYMMDD) 20060506 CASE NUMBER (Do not write in this space.) FD2006-00185

To Whom It May Concern:

My discharge is improper because the basis for my discharge, as well as the narrative reason for separation, are represented in the wrong light and is left too open for interpretation. The basis was drug abuse or use of a controlled substance, which the statement in itself allows for ones own interpretation and opinions to take over, transforming your perception, and just as in a sexual harassment case perception is, for the most part, reality. My actual offense was using hemp juices as well as oils for healthy alternative cooking and eating. These products are legally available at numerous nutritional, health, and organic stores. My question is, how can I be judged so harshly and generally if the offense was committed unknowingly, not to mention no information was made available by the United States Air Force at any level on such products and their potential to show up on a random drug screen. To be accountable one must know all the facts, or at the very least the pertinent ones. Airmen received no such restrictions or warnings of any kind for these products or similar products. Thank you for your time and consideration on this matter.

Very Respectfully, /





DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 1ST FIGHTER WING
LANGLEY AIR FORCE BASE VA

FD 2006-00185

17 SEP 2001


MEMORANDUM FOR A1C: [REDACTED]

FROM: 10 IS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. If your discharge is approved, your service will be characterized as honorable or under honorable conditions (general) or under other than honorable conditions. I am recommending that your service be characterized as under honorable conditions (general).
2. My reason for this action is that between on or about 18 May 01 and 18 Jun 01, you wrongfully used marijuana as evidenced by a positive urinalysis test (see Attachment 1a). You received nonjudicial punishment on 28 Aug 01, which consisted of a reduction to Airman First Class, suspended forfeiture of \$644.00 pay.
3. Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The separation authority will make the findings and recommendations required under 10 U.S.C. 2005(g) regarding recoupment of education assistance funds, if applicable. The commander exercising special court-martial jurisdiction or a higher authority will decide whether you will be 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.
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 Captain [REDACTED], Area Defense Counsel, 54 Willow Street, Bldg. 147, Ext. 5607 at 1100 hours on 18 Sep 2001. You may consult civilian counsel at your own expense.
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1840 hours on 20 Sep 2001 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 in 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 the 1st Medical Group, Physical Exam Section at 1430 hours on 17 Sep 2001 and an additional examination will be scheduled if necessary.
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 in the unit orderly room.
9. Execute the attached acknowledgment and return it to me immediately.


Commander, 10th Intelligence Squadron

Attachments:

1. Supporting Documents
 - a. Art 15, 28 Aug 01
2. Receipt of Notification Memorandum