

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b>  [ ]		<b>GRADE</b>  SRA	<b>AFSN/SSAN</b>  [ ]					
<b>TYPE</b>	<b>GEN</b>	<b>PERSONAL APPEARANCE</b>		<b>X</b>	<b>RECORD REVIEW</b>			
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<b>YES</b>	<b>No</b>							
	<b>X</b>							
<b>MEMBER SITTING</b>  [ ]				<b>VOTE OF THE BOARD</b>				
				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
<b>ISSUES</b> <b>A94.05</b>		<b>INDEX NUMBER</b> <b>A66.00</b>		<b>EXHIBITS SUBMITTED TO THE BOARD</b>				
				<b>1</b>	ORDER APPOINTING THE BOARD			
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE			
				<b>3</b>	LETTER OF NOTIFICATION			
				<b>4</b>	BRIEF OF PERSONNEL FILE			
					COUNSEL'S RELEASE TO THE BOARD			
	ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE							
	TAPE RECORDING OF PERSONAL APPEARANCE HE							
<b>HEARING DATE</b> <b>11 Jan 2007</b>		<b>CASE NUMBER</b> <b>FD-2006-00188</b>						
<b>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</b>								
<p>Case heard in Washington, D.C.</p> <p>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</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>          								
<b>INDORSEMENT</b>				<b>DATE: 1/24/2007</b>				
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742		<b>FROM:</b> 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 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. The records indicated the applicant received an Article 15 and five Records of Individual Counseling for misconduct. The applicant was administratively disciplined for being late for duty and dereliction of duty. He received an Article 15 for wrongfully distributing hydrocodone (Vicodin). He was punished with a suspended reduction in grade to Airman First Class, forfeiture of pay, and 14 days of extra duty. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. 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 DRB was pleased to see that the applicant was doing well and continuing his education. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

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, on September 20, 1999) 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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Kirtland AFB, NM on 10 Sep 04 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 26 Jan 81. Enlmt Age: 17 4/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-37, E-69, G-64, M-52. PAFSC: C2A551L - Aerospace Maintenance Journeyman. DAS: 3 Sep 03.

b. Prior Sv: (1) AFRes 12 Jun 98 - 7 Sep 99 (1 year 2 months 26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Sep 99 for 6 yrs. Svd: 05 Yrs 00 Mo 03 Das, all AMS.

b. Grade Status: SrA - 25 Feb 02  
A1C - 25 Oct 99

c. Time Lost: None.

d. Art 15's: (1) 9 Feb 04, Kirtland AFB, NM - Article 112a. You, did, at or near Albuquerque, New Mexico, between on or about 1 Apr 02 and on or about 30 Sep 02, wrongfully distribute some quantity of hydrocodone (brandname Vicodin), a schedule III controlled substance. Suspended reduction to A1C. Forfeiture of \$369.00 pay, 14 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC, 10 JAN 03 - Failure to go.  
RIC, 20 SEP 02 - Failure to go.  
RIC, 08 JUN 01 - Dereliction of duty.  
RIC, 01 JUN 01 - Late for duty.  
RIC, 05 APR 00 - Late for duty.

f. CM: None.

g. Record of SV: 8 Sep 99 - 7 May 01 Kirtland AFB 5 (HAF Dir)  
8 May 01 - 7 May 02 Kirtland AFB 5 (Annual)  
8 May 02 - 5 May 03 Kirtland AFB 5 (CRO)

h. Awards & Decs: AFAM, AFTR, NDSM, AFLSAR.

i. Stmt of Sv: TMS: (06) Yrs (02) Mos (29) Das

TAMS: (05) Yrs (00) Mos (03) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 09 May 06.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Article 15, 09 Feb 04.
3. Character References.
4. Memorandum For Det 2, 412 AMXS/CC, 14 Oct 03.
5. AF Form 100.
6. Two AF Forms 973.
7. DD Form 214.
8. Memorandum For Discharge Authority, 19 Aug 04.
9. Five Character References.
10. Nomination for Squadron Outstanding Performance.
11. Air Force Achievement Award.
12. Three Enlisted Performance Reports.

16JUN06/ia

My name is [redacted] and I am submitting this letter to you along with my paper work for an upgrade on my military discharge from general under honorable conditions to a full honorable. This upgrade to honorable discharge will have two lifetime long lasting effects for me. First with the general discharge I am required to disclose this information on every job application that I fill out and this significantly reduces my chance for any real career advancements. Second is that by having a general discharge the benefit of the Montgomery G.I. Bill has been taken away from me. I am currently attending college and have been for the entire eighteen months since I have been discharged. In that time I have also been able to maintain a job at the Davis Advanced Laser Facility on Kirtland Air Force Base as a contractor with the Boeing Company. The upgrade to honorable would greatly reduce the financial strain of college loans by reinstating the use of my Montgomery G.I Bill. The goal of this letter is not to make applying for jobs easier or to get a college benefit back but more importantly to simply right a wrong that was done to an airman who other then the one mistake of giving a prescription vicodin to another airman had never had more then the letters of counseling, which are also included in my package, for being late to work three times in five years and missing a single appointment.

The entire incident began when three other members, Staff Sergeant [redacted] Staff Sergeant [redacted], and Senior Airman [redacted] of my squadron the 412 AMXS DET 2, a detachment unit from Edwards AFB were arrested by Air Force Office of Special Investigation agents for distributing and using prescription drugs between each other. I was arrested the next day while attending Airman Leadership School, which is required for any Senior Airman who has been selected for Staff Sergeant. I later found out that the arresting officers of the OSI had not conducted an investigation on me and had only arrested me based on the statement that [redacted] had given them. Their investigation on me started when they began questioning me *after* my arrest. I know this because they did not present any evidence to me suggesting they had just cause to arrest me. There was no audio, visual, or physical evidence presented. They had taken [redacted] statement and acted upon it, which in any court in America hearsay is considered inadmissible and is not grounds enough to arrest anyone. [redacted] had stated that she had seen me smoking marijuana with other members of my squadron at a party she had attended. It was later revealed in the character statement by [redacted] that I am submitting along with this letter that it was not me who she saw smoking the marijuana. [redacted] was one of the people involved in smoking the marijuana and he wrote this character statement for me in my defense. It clearly states that I was not at the party when the marijuana was smoked. My commander at the time Captain [redacted] dropped the charge of wrongfully using marijuana. The charge of wrongfully distributing some quantity of hydrocodone (brandname Vicodin) was the only one that determined the punishment I received. The punishment which I accepted willingly and without dispute as stated in my paperwork was 14 days extra duty, forfeiture of \$369.00 pay, reduction in grade to E-3 (airman first class) which was suspended, and reprimand.

These punishments as stated before were accepted without dispute from myself. I knew what I had done was wrong and was willing to accept any punishment that was handed to me. But what I was not expecting was to be kicked out of the military after I had already accepted and preformed all punishment duties. In this way I truly feel that I was punished twice for the same offense. Why I was discharged early was explained to

me by my commander Captain [redacted] that he was told from the base legal office that this was the proper procedure for this type of incident. I then spoke with the legal office counselors and they told me that it was my commander's decision alone to change my honorable to a general and to have me discharged early because punishment for me had already been handed down from the Article 15. Who then is correct with their statement, the legal counselors or my former commander? If the legal counselors are right then why was I made to receive a second punishment for the same offense with such serious repercussions after having served all punishments without rebuttal or complaint?

Along with this letter I am sending all of the character statements that I had collected from five of the Sergeants who worked with me and they all clearly state that if I had been allowed to stay in the Air Force that my advancement through both my career and the enlisted ranks would not be restrained in any way because of this single incident.

I want to thank you for the opportunity to present my case to you and to ask you one more time to please upgrade my discharge to a full honorable so that one mistake I made when I was twenty-one will not follow me around for my entire life. Thank you.

Sincerely,

[redacted signature]



FD 2006-00788

**DEPARTMENT OF THE AIR FORCE**  
DETACHMENT 2, 412TH AIRCRAFT MAINTENANCE SQUADRON (AFMC)  
KIRTLAND AIR FORCE BASE NEW MEXICO

17 Aug 04

MEMORANDUM FOR SRA: \_\_\_\_\_

FROM: Det 2, 412 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically drug abuse. The authority for this action is AFD 36-32, *Military Retirements and Separations* (14 Jul 93) and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.54 (28 May 03). If my recommendation is approved, your service will be characterized as General (Under Honorable Conditions) or Honorable. I am recommending that your service be characterized as General (Under Honorable Conditions).
2. My reason for this action is that between on or about 1 Apr 02 and 30 Sep 02, you wrongfully distributed Hydrocodone (Vicodin), a schedule III controlled substance. This wrongful distribution was discovered through an OSI investigation. For your actions you received punishment under Article 15 of the UCMJ on 9 Feb 04. (Atch A). This action was subsequently placed in your UIF on 13 Feb 04.
3. When recommending your discharge, I also considered the following:
  - a. On 4 Apr 00, you failed to report for duty at the prescribed time of 0230. Furthermore, you did not report to work until 0443 that morning, due to your oversleeping. For your actions you received a Record of Individual Counseling (RIC), dated 5 Apr 00. (Atch B)
  - b. On 1 Jun 01, you failed to report for duty at the prescribed time due to your oversleeping. For your actions you received a RIC dated 1 Jun 01. (Atch C)
  - c. On 7 Jun 01 you lost one apex tool from your tool box, which was subsequently found on the hanger floor. For your actions you received a RIC dated 8 Jun 01. (Atch D)
  - d. On 19 Sep 02 you failed to go to a Chemical Warfare refresher class due to your overslept. For your actions you received a RIC dated 20 Sep 02. (Atch E)
  - e. On 10 Jan 03 you failed to report for duty at the prescribed time due to your oversleeping. For your actions you received a RIC dated 10 Jan 03. (Atch F)
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 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, bonuses, or education assistance funds may be subject to recoupment.

5. You have the right to consult counsel. Military legal counsel will be obtained to assist you. The legal office will make an appointment for you to consult with an area defense counsel. You may consult civilian counsel at your own expense.

6. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within 3 workdays from today unless you request and receive an extension for good cause shown. I will send any timely written statements you give to me to the separation authority.

7. 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.

8. The Legal Office will obtain a mandatory medical examination for you at the 377th Medical Group (Family Practice).

9. 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 your unit orderly room or at the Area Defense Counsel's office, located at building 20361, 8201 K Street, Kirtland AFB NM 87117.

10. Execute the attached Receipt of Notification Memorandum and return it to me immediately. (Atch G).

[Redacted Signature Box]

Commander

**Attachments:**

- A. Article 15, UCMJ, dated 3 Feb 04
- B. RIC, dated 5 Apr 00
- C. RIC, dated 1 Jun 01
- D. RIC, dated 8 Jun 01
- E. RIC, dated 10 Sep 02
- F. RIC, dated 10 Jan 03
- G. Receipt of Notification Memorandum