

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
[ ]		SRA	[ ]

TYPE GEN	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 A92.01 A92.17 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 30 Jan 2007	CASE NUMBER FD-2006-00200
-----------------------------	------------------------------

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.

[Signature]

<b>INDORSEMENT</b>		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**

CASE NUMBER

**FD-2006-00200**

**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 for misconduct. The Article 15 was administered for wrongful use of marijuana. As a result, applicant was reduced in grade to Senior Airman and required to perform 14 days of extra duty. 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. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct 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.

**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 SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Whiteman AFB, MO on 17 Nov 04 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 3 Sep 79. Enlmt Age: 19 11/12. Disch Age: 25 2/12. Educ: HS DIPL. AFQT: N/A. A-94, E-82, G-92, M-75. PAFSC: 3E051 - Electrical Systems Journeyman. DAS: 29 May 00.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 25 Aug 99 for 6 yrs. Svd: 05 Yrs 02 Mo 23 Das, all AMS.

b. Grade Status: SrA - 26 Oct 04 (Article 15, 26 Oct 04)  
SSgt - 01 Dec 03  
SrA - 25 Dec 01

c. Time Lost: None.

d. Art 15's: (1) 26 Oct 04, Whiteman AFB, MO - Article 112a. You, did, at or near the state of Missouri, on or about 04 Sep 04, wrongfully use marijuana. Reduction to SrA, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: none.

g. Record of SV: 25 Aug 99 - 15 Jan 01 Whiteman AFB 5 (HAF Dir)  
16 Jan 01 - 15 May 01 Whiteman AFB 5 (CRO)  
16 May 01 - 15 May 02 Whiteman AFB 5 (Annual)  
16 May 02 - 15 May 03 Whiteman AFB 5 (Annual)  
16 May 03 - 15 May 04 Whiteman AFB 5 (Annual)

h. Awards & Decs: AFAM, AFTR, NDSM, AFLSAR, NCOPMER, AFOUA, AFGCM.

i. Stmt of Sv: TMS: (05) Yrs (02) Mos (23) Das  
TAMS: (05) Yrs (02) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 19 May 06.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.
2. Five Enlisted Performance Reports.

30JUN06/ia

**DEPARTMENT OF THE AIR FORCE  
AIR FORCE REVIEW BOARDS AGENCY**

DD Form 293, Application for the Review of  
Discharge or Dismissal from the Armed  
Forces of the United States Under Title 10 US  
Code §1553) in the case of: [ ]

CASE NO. \_\_\_\_\_

**BRIEF IN SUPPORT OF DD FORM 293 APPLICATION FOR THE REVIEW OF  
DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED  
STATES UNDER TITLE 10 US CODE §1553 IN THE CASE OF**

[ ]

[ ] in accordance with 10 U.S.C. §1553, has petitioned the Air  
Force Review Boards Agency (the "Agency") to upgrade: [ ] 17 November 2004 General  
(Under Honorable Conditions) discharge to a discharge under Honorable conditions. [ ]  
argues that the administrative determination that he was to be discharged with a character of  
service as Under Honorable Conditions, (General) was inequitable because the decision to  
discharge with that character was based on a single incident that was not in character with the  
preceding five years of outstanding service to the Air Force. [ ] petitions this Review Board  
to upgrade his Character of Service discharge to Honorable and remove from his permanent  
individual service record, now maintained at the Air Force Personnel Center, any and all  
documents containing references to the previous discharge characterization.

The Board is invited to note that the service record reveals that there has never been a  
prior incident of misconduct by Mr. [ ] Accordingly, permitting this single incident to result  
in not only an Article 15 reduction in rank and the stigma of a General Discharge to remain in his

permanent record has caused irreparable harm to [redacted] in his education and employment opportunities in the past and, if left uncorrected, will continue to cause injury.

## I. FACTUAL BACKGROUND

On August 25, 1999 [redacted] enlisted in the US Air Force for a period of five years. He completed his basic training and advanced to technical training as an electrical systems apprentice, followed by Airman Leadership School. He reported to his Unit, 509 Civil Engineering Squadron (ACC), Whitemen AFB, Missouri and served his entire enlistment at that command.

During his nearly five year tenure at the command, he was evaluated five times through Enlisted Performance Reports ("EPR"), copies of which are enclosed here and referenced herein as Exhibits 1 through 5.

Apparently, on or about September 7, 2004 Mr. [redacted] submitted to a command sponsored unit drug sweep. Approximately one week later, the command received notice from the approved testing laboratory of an allegation of positive drug test following the drug screening. It was alleged that [redacted] specimen tested positive for a controlled substance, THC. His command subsequently conducted an informal investigation ("Investigation") under authority of Chapter 15 of the Uniform Code of Military Justice ("UCMJ") supervised by OSI. The express purpose of this type of investigation is to determine the facts surrounding a possible UCMJ infraction and recommend to the Convening Authority a course of action for final disposition of the charges.

In the latter part of September, it was determined that there was a positive result

indicating THC in [ ] and his command began an administrative discharge proceeding, which was completed on October 26, 2004 resulting in a discharge pursuant to AFI 36-3208.

[ ] last day with the Air Force was November 17, 2004.

## II. PROCEDURAL BACKGROUND

This is the first time that [ ] has submitted an Application for the Review of Discharge or Dismissal, DD Form 293. Accordingly, the Board will be inquiring into the merits of the Application *de novo*.

## III. JURISDICTION

The Air Force Review Boards Agency may hear cases from current and former service members who have suffered from either an error or an injustice. 10 U.S.C. §1552(a). The Board has jurisdiction over this matter to examine the applicant's administrative discharge and to change the characterization of service and/or the reason for discharge based on standards of equity or propriety. The Board will consider applications that have been timely filed within the statutory period and as prescribed in Air Force Instructions.

## IV. DISCUSSION

Mr. [ ] invites the Board's attention to his record of achievement over the five years preceding the unfortunate incident of September, 2004. Mr. [ ] submits into evidence his five Enlisted Performance Reports ("EPR's") covering the period of his enlistment from 25 August

1999 to 15 May 2004. ("Exhibits 1-5" attached hereto) There is ample evidence contained in the EPR's to show that he was a model Airman for his entire enlistment.

Mr. [redacted] invites the Board's attention to his EPR dated 15 January 2001 in which he is rated a 5 by his electric shop NCOIC. He was the one of two airmen to receive this rating from among nine other three level airmen. He was recognized for his as being the only electrician on a key command team, the High Use Facility Inspection Team that reduced routine job orders by 75% and increased critical safety. In this reporting period, he completed his crew development court in half the required time in order to begin attending college.

During the subsequent reporting period ending 15 May 2001, which he was reported on due to his eligibility for below the zone promotion consideration, he similarly was ranked all fives. He was directly responsible for the rapid response to reroute power at a damaged nuclear weapons storage facility due to a toxic chemical spill.

In the period reported on 16 May 2002 Mr. [redacted] showed his commitment to the community by his voluntary participation in Habitat for Humanity. It goes without saying he evidenced more than ample mission focus by deploying to Oman in support of Operation Enduring Freedom, at which time he engaged in endless hours building the base in that Middle East locale.

In the 15 May 2003 reporting period, Mr. [redacted] was a five level electrician and was responsible for repair of over twenty-five percent of the mission impacting electrical outages at Seeb AB in Oman in his second deployment to the Middle East. For this Operation Iraqi Freedom deployment, he was by far the most knowledgeable electrician at his grade level as evidenced by his award of the Air Force Achievement Medal for his efforts.

Mr. [redacted] last EPR of 15 May 2004 showed him to be a stellar performer yet again. He



was singled out by his command to attend the Airman Leadership School and complete the CCAF electrical degree with a GPA of 3.87. He also completed his AA degree from State Fair Community College at that time. Despite his time consuming education commitment, he was put in charge of all large test equipment in the electrical shop.

#### V. CONCLUSION

Based on the foregoing, [ ] asks the Board to upgrade his discharge characterization from Under Honorable Conditions (General) to an Honorable discharge. In keeping with the statement that his transgression was an isolated incident, there is no record of any administrative action or non-judicial punishment during his enlistment. It would be manifestly unjust to penalize Mr. [ ] to this extent when there are other remedies available.



Dated: May 19, 2006



DEPARTMENT OF THE AIR FORCE  
509TH CIVIL ENGINEER SQUADRON (ACC)  
WHITEMAN AIR FORCE BASE, MISSOURI

FD 7006-00200

4 NOV 04

MEMORANDUM FOR SRA [REDACTED]

FROM: 509 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for drug abuse. The authorities for this action are AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved your service may be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reason for this action is:

a. On or about 4 Sep 04, you wrongfully used marijuana. For this incident, you received an Article 15, dated 26 Oct 04.

3. Copies of the documents to be forwarded to the separation authority in support of his recommendation are attached. The commander exercising special court-martial convening authority 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 ADC in Bldg 509 on 4 NOV 04 at 1330L. You may also 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 1200L/9 NOV unless you request and receive an extension for good cause shown. I will forward your statements 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 rights to do so.

7. You have been scheduled for a medical examination. You must report to Family Practice at \_\_\_\_\_ on \_\_\_\_\_ for the examination.

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 your unit's Orderly Room.

*For Official Use Only*

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



Commander

**Attachments:**

1. Supporting documents--for the reason for discharge
  - a. Article 15, dated 26 Oct 04
2. Documents containing derogatory information--which are not listed in the notification letter: None.
3. Airman's receipt of notification memorandum, dated 4NOV04.



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 509TH BOMB WING (ACC)  
WHITEMAN AIR FORCE BASE, MISSOURI

FD 2006-00200

11 Nov 04

MEMORANDUM FOR 509 BW/CC

FROM: 509 BW/JA

SUBJECT: Legal Review of Administrative Discharge – SrA: [REDACTED]  
[REDACTED] 509 CES

1. The 509 CES/CC, Major [REDACTED], initiated discharge action against Respondent, SrA: [REDACTED], for drug abuse. I have reviewed the above-referenced action in accordance with AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, Section H, paragraph 5.54, and find it legally sufficient.

2. **Facts:** On or about 4 Sep 04, Respondent wrongfully used marijuana. For this incident, he received an Article 15, dated 26 Oct 04.

3. **Unit Recommendation:** The 509 CES/CC recommends that SrA [REDACTED] receive an under honorable conditions (general) discharge.

4. **Member's Response:** SrA [REDACTED] consulted counsel and submitted matters on his behalf. In his statement, Respondent requests an honorable discharge.

5. **Legal Analysis:**

a. **Basis:** AFI 36-3208 states that "drug abuse is incompatible with military service and airmen who abuse drugs one or more times are subject to discharge for misconduct." AFI 36-3208, paragraph 5.55.2.1 provides that a member found to have abused drugs must be discharged unless the member presents evidence that he meets the retention criteria contained in paragraphs 5.55.2.1.1 through 5.55.2.1.7. SrA [REDACTED] received an Article 15 for wrongful use of marijuana, and has not presented evidence that he meets the seven criteria required for retention in the United States Air Force. The presence in the military environment of persons who engage in drug abuse seriously impairs accomplishing the military mission and is a legally sufficient basis for discharge under this section.

b. **Service Characterization:** AFI 36-3208, paragraph 1.18.2, states that an under honorable conditions (general) discharge is appropriate when an airman's service has been honest and faithful but significant negative aspects of his conduct or performance of duty outweigh positive aspects of his military record. Given Respondent's drug abuse, an under honorable conditions (general) discharge characterization is appropriate.

c. **Probation and Rehabilitation:** IAW AFI 36-3208, para. 5.55.2.3, and 7.2.6.7, Probation and Rehabilitation (P&R) is not authorized if the reason for discharge is drug abuse. Therefore, SrA [ ] is not eligible for P&R in this case.

6. **Options:** As the special court-martial convening authority, you have the option to:

a. Direct that Respondent be separated with an under honorable conditions (general) discharge;

b. Recommend waiver of Respondent's discharge to 8 AF/CC under the criteria of AFI 36-3208, Section 6K;

c. Recommend Respondent be separated with an honorable discharge and forward this case to the general court-martial convening authority (8 AF/CC) for action; or

d. Direct this case be reinitiated pursuant to the board hearing procedures of AFI 36-3208, Chapter 6, Section C, if you feel a discharge under other than honorable conditions (UOTHC) is warranted.

7. **Recommendation:** I recommend you discharge the respondent, characterizing his service as under honorable conditions (general), without an offer of probation and rehabilitation. If you agree, please sign the attached correspondence and return this file to JA for further processing, or please advise us if you prefer an alternate disposition.

[Signature box]

Chief, Adverse Actions

I concur with the above recommendation.

[Signature box]

Staff Judge Advocate

Attachment:  
Discharge Package/SrA [ ]