

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []	GRADE AB	AFSN/SSAN []
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

MEMBER SITTING	VOTE OF THE BOARD				
	NON	GEN	UOTHC	OTHER	DFNY
[]					X**
[]					X**
[]					X**
[]					X**
[]					X**

ISSUES A01.13 A01.43	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 I/F	

HEARING DATE 24 Jul 2007	CASE NUMBER FD-2006-00208	
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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 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

INDORSEMENT		DATE: 7/26/2007
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, 3RD FLOOR ANDREWS AFB, MD 20762-7002	

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00208

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 requested a personal appearance before the Discharge Review Board (DRB) and was scheduled for an appearance on 24 Jul 2007 at Andrews AFB but he did not keep the appointment or call to reschedule. Therefore, his request was reviewed based upon the record and his submission.

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 there was an impropriety in his discharge because he was innocent of the offense for which he was being discharged. The records indicated the applicant received an Article 15 for wrongful use of marijuana. The applicant contends that he was in a room where "inappropriate behavior was on display," presumably meaning that other people were smoking marijuana. He states that he was "immediately" submitted for a urinalysis which revealed negative results for the metabolite of marijuana. He states he was subjected to several random drug screens which were all negative for illegal substances. He states he knows it was wrong to be in a room where this activity was occurring but denies taking part in it. While the discharge documents in this case are missing, the DRB used the presumption of regularity in determining that the applicant's chain of command had a solid basis for going forward with this discharge. The DRB noted that the applicant chose to accept the offered Article 15 for marijuana use, rather than requesting trial by court-martial, and did not choose to appeal the Article 15 at the time it was given. 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 AB) (HGH A1C)

MISSING DISCHARGE PACKAGE

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Barksdale AFB LA on 18 Apr 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, and to Change the RE Code and Reason for Discharge.
2. **BACKGROUND:**
 - a. DOB: 29 Apr 81. Enlmt Age: 18 4/12. Disch Age: 19 11/12. Educ: HS DIPL. AFQT: N/A. A-41, E-78, G-76, M-63. PAFSC: 4N031 - Medical Service Technician Apprentice. DAS: 20 Sep 00.
 - b. Prior Sv: (1) AFRes 02 Sep 99 - 22 Feb 00 (5 mos 21 days) (Inactive).
3. **SERVICE UNDER REVIEW:**
 - a. Enlisted as AB 23 Feb 00 for 6 years. Svd: 01 Yrs 01 Mo 26 Das, all AMS.
 - b. Grade Status: AB - 15 Mar 01 (Article 15, 15 Mar 01)
A1C - Unknown
 - c. Time Lost: None.
 - d. Art 15's: (1) 15 Mar 01, Barksdale AFB, LA - Article 112a. You did, on or about 19 Dec 00 wrongfully use marijuana. Reduced to AB. (No appeal) (No mitigation)
 - e. Additional: Unknown.
 - f. CM: None.
 - g. Record of SV: None.
 - h. Awards & Decs: AFTR.
 - i. Stmt of Sv: TMS: (01) Yrs (07) Mos (17) Das
TAMS: (01) Yrs (01) Mos (25) Das
4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 22 May 06.
(Change Discharge to Honorable, and Change the RE Code and Reason for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's issues.
2. DD Form 214.
3. Two DD Form 4.
4. Reserve Discharge Order.
5. AF Form 100, Discharge Order.
6. DEP Discharge Reason.
7. Training Order.
8. Letter to Congressman.
9. Letter from Senator Schumer.

28JUN06/day

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:
DD 214

b. DOCUMENT 2:
DD 4/1 - 4/3

c. DOCUMENT 3:
AF FORM 100

8. ISSUES
The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block B prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I am requesting a change in type of discharge, and also a change in my reentry code. I did not complete my full terms of service and I would greatly like to do so. I am applying for this review in order to re-enlist into the United States Air Force. I obtained the SF 180 and enclosed all records that were received. Many of the records pertaining to my separation were not received and to the best of my knowledge are unobtainable. I did receive an Article 15 while on active duty for wrongful use of marijuana. I strongly deny this claim, as said in my comments section of the article 15. I happened to be in a room where inappropriate behavior was on display. I know now that I should have immediately removed myself from the situation. I was immediately submitted for a drug screen urinalysis which revealed negative results for illegal drug use. I was also subjected to several random drug screens which all yielded negative results. As a result of this named incident, I was demoted in rank from E-3 to E-1, I was ordered to serve on base duty for several weeks. Served with an Article 15 and discharged. I know what I did was wrong, but in no way was I involved in any illegal drug use. This has been a very dark cloud over myself, personally and my career and I want to make it right by offering my services to the United States. I am prepared to take any actions necessary to achieve this objective. I have spoken to the recruiter and am prepared to enlist immediately upon approval. I also contacted my congressman and have received a personal recommendation to this matter.

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

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

a. DATE (YYYYMMDD)
20060522

b. SIGNATURE

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001

CONTINUATION OF SECTION 7, DD FORM 243

d. DOCUMENT 4:

OTHER INFORMATION RECEIVED FROM ARCHIVE

e. DOCUMENT 5:

LETTER TO CONGRESSMAN

f. DOCUMENT 6:

RECOMMENDATION FROM CONGRESSMAN