

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 AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE BCD	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	UO/HC	OTHER	DENY
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X

ISSUES A94.05	INDEX NUMBER A68.00	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 5px; text-align: center;">1</td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 5px; text-align: center;">2</td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 5px; text-align: center;">3</td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 5px; text-align: center;">4</td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE HE</td> </tr> </tbody> </table>	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
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HEARING DATE 01 Mar 2007	CASE NUMBER FD-2006-00218	
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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.

INDORSEMENT TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	DATE: 3/17/2007 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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2006-00218

GENERAL: The applicant appeals for upgrade of discharge to General and change reason for discharge to failure to adapt.

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 evidence of record nor that provided by the applicant provides a sufficient basis in clemency for a change of discharge.

ISSUE:

The applicant's issues are listed in the attached brief.

The applicant did not receive an administrative discharge, thus his contention of inequity is not applicable. The applicant received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court-Martial conviction. Under the provisions of Section 1553, 10 USC, the only basis for a change of a Bad Conduct discharge is clemency. The applicant did not present any evidence which the DRB opined that would warrant granting clemency.

CONCLUSIONS: The Discharge Review Board concluded that the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

Attachment:
Examiner's Brief

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

(Former AB) (HGH SRA)

MPR MISSING

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr USAF McChord AFB, WA on 13 Jul 06 UP SPCMO No.1 (Conviction by Court Martial). Appeals for General Discharge.

2. **BACKGROUND:**

a. DOB: 19 Aug 81. Enlmt Age: 19 7/12. Disch Age: 24 10/12. Educ: HS DIPL. AFQT: N/A. A-88, E-88, G-92, M-82. PAFSC: 3E052 - Electrical Power Production Journeyman. DAS: 20 Jun 04.

b. Prior Sv: (1) AFRes 12 Apr 01 - 14 May 01 (1 month 3 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 15 May 01 for 6 yrs. Svd: 03 Yrs 01 Mo 06 Das, of which AMS is 02 Yrs 10 Months 22 Days (excludes 2 months 15 days lost time).

b. Grade Status: AB - 20 Jun 04 (SPCMO #1, 3 May 04)
SrA - 29 Oct 03
A1C - 29 Jun 01

c. Time Lost: 25 Mar 04 thru 8 Jun 04 (2 months 15 days).
(Examiners Note: Appears appellate/Excess leave started 20 Jun 04)

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial No.1 - 3 May 04

CHARGE I: Article 112a. Plea: G. Finding: G.

Specification: Did, at or near Seattle, Washington, between on or about 1 July 2003 and on or about 1 November 2003, wrongfully use cocaine.

CHARGE II: Article 128. Plea: G. Finding: G.

Specification: Did, at or near Lajes Field, Azores, Portugal, on or about 27 December 2003, unlawfully strike Staff Sergeant [] by pushing Staff Sergeant [] over a masonry wall and by punching and kicking Staff Sergeant [] in the head and back with his fist and foot. Sentence adjudged on 25

March 2004: Reduction to the grade of E-1, confinement for 3 months, and a Bad Conduct Discharge.

g. Record of SV: (Examiner's Note: The following are missing from file).

15 May 01 - 03 Mar 03	Patrick AFB	5	(Initial)
04 Mar 03 - 03 Mar 04	Patrick AFB	4	(Annual)

h. Awards & Decs: AFAM, NDSM, AFOSSTR, AFTR, AFEM, SWASM.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (25) Das
TAMS: (02) Yrs (10) Mos (22) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 31 May 06.
(Change Discharge to General)

Issue 1: My discharge was inequitable because it was based on one incident that was isolated in 36 months of service with no other adverse action. I was offered a General discharge in exchange for information, but I had none.

ATCH

None.

05OCT06/ia

SPCMO No. 1, 31 March 2003, was the last SPCMO of this headquarters published in FY03

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 65th AIR BASE WING (USAFE)
LAJES FIELD, AZORES, APO AE 09720

Special Court-Martial Order

3 May 2004

No. 1

SENIOR AIRMAN [redacted] United States Air Force, 65th Civil Engineer Squadron (USAFE) was arraigned at Lajes Field, Azores, on the following offenses at a court-martial convened by this headquarters.

CHARGE I: Article 112a. Plea: G. Finding: G.

Specification: Did, at or near Seattle, Washington, between on or about 1 July 2003 and on or about 1 November 2003, wrongfully use cocaine.

CHARGE II: Article 128. Plea: G. Finding: G.

Specification: Did, at or near Lajes Field, Azores, Portugal, on or about 27 December 2003, unlawfully strike Staff Sergeant [redacted] by pushing Staff Sergeant [redacted] over a masonry wall and by punching and kicking Staff Sergeant [redacted] in the head and back with his fist and foot.

SENTENCE

Sentence adjudged on 25 March 2004: Reduction to the grade of E-1, confinement for 3 months, and a Bad Conduct Discharge.

FILE
USAF MASTER PERSONNEL RCDS OF
INITIALS *AM* DATE *24 May 04*
HQ USAF (AF/JAJM)

S30615

ACTION

In the case of SENIOR AIRMAN [REDACTED], United States Air Force, 65th Civil Engineer Squadron, (USAFE), Lajes Field, Azores, Portugal, the sentence is approved, and except for the bad conduct discharge will be executed. The Air Force Corrections System is designated for the purpose of confinement, and the confinement will be served therein or elsewhere as the Director, Air Force Corrections, may direct. Unless competent authority otherwise directs, upon completion of the sentence to confinement, AB [REDACTED] will be required, under Article 76a, UCMJ, to take leave pending completion of appellate review of the conviction.

[REDACTED]
Commander

FOR THE COMMANDER

[REDACTED]
Staff Judge Advocate

DISTRIBUTION:

- 1 - AB [REDACTED] JJSACF-E, Unit 29723, APO AE 09058
- 1 - Lt Col [REDACTED] AFLSA/EURCIR, Unit 10305, Box 390, APO, AE 09044 (MJ)
- 1 - Capt [REDACTED] 65 ABW/JA, Unit 7710, APO, AE 09720 (TC)
- 1 - Capt [REDACTED] AFLSA/ADC, Unit 10020, Box 575, APO, AE 09094 (DC)
- 1 - 65 ABW/CC, Unit 7710, APO, AE 09720
- 1 - 65 CES/CC, Unit 7790, APO, AE 09720

- 1 - 65 MSG/CC, Unit 7780, APO, AE 09720
- 1 - Commander, 435 SFS/OL-A, Unit 29723, APO AE 09058
- 1 - Corrections Officer, 435 SFS/OL-A, Unit 29723, APO AE 09058
- 2 - 65 CPTS/FMFS, Unit 7710, APO, AE 09720
- 4 - 65 MSS/DPMPS, Unit 6856, APO, AE 09720
- 1 - 65 ABW/JA, Unit 7710, APO, AE 09720
- 1 - 3 AF/CC, Unit 4840, APO, AE 09459-4840
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- 1 - HQ AFPC/DPWROP, 550 C Street West, Suite 15, Randolph AFB, TX 78150-4717
- 1 - DFAS-POAB/DE, 6760 East Irvington Place, Denver, CO 80279-7500
- 1 - DFAS-PMJPC/DE, 6760 East Irvington Place, Denver, CO 80279-3000
- 1 - AFCAF/PSA, 229 Brookley Avenue, Building 520, Bolling AFB, DC 20032-7040
- 4 - HQ AFSFC/SFCI, 1517 Billy Mitchell Boulevard, Lackland AFB, TX 78236-0119
- 1 - HQ 11 WG/JAJR, 20 Macdill Blvd, Room 207, Bolling AFB, DC 20032
- 1 - Det 516 OSI, Unit 8015, APO AE 09720