

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 COUNSEL YES No <input type="checkbox"/> <input checked="" type="checkbox"/>	X	PERSONAL APPEARANCE	RECORD REVIEW
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NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
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MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X**+
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	X**+				
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ISSUES A93.11 A93.07 A94.05	INDEX NUMBER A66.00	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>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 17 Jul 2007	CASE NUMBER FD-2006-00272	
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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 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.

* CHANGE RE CODE
 + CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	INDORSEMENT	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
		DATE: 7/18/2007

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority and change the reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 17 Jul 2007.

The following additional exhibits were submitted at the hearing:

Exhibit #5: Applicant's Contentions

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 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:

Issue 1. Applicant contends his discharge was inequitable because it was based on his past drug use. Applicant states he was honest about his previous drug use and served a total of 45 months without getting into any trouble. The record shows that the applicant had to obtain a moral waiver to enter the Air Force because when he had been arrested for possession of marijuana at the age of 16. The record also indicates that the applicant received a Summary Court Martial (SCM) for wrongful use of marijuana. The applicant pled guilty during the SCM and was found guilty. He received a reduction in rank to Airman First Class (A1C) and 20 days hard labor without confinement.

The applicant testified that at the time of the incident he was under a lot of pressure financially and was disgruntled with the Air Force. He was on leave at the time and went drinking with some friends. He had drank 7-8 beers and they were heading to drink some more. A friend pulled out some marijuana; he resisted at first but gave in later, not really thinking of the consequences. The applicant tested positive shortly after during a random urinalysis. The record shows also that the applicant was an excellent performer as revealed in his performance reports which were fire-wall five ratings. After a review of the record and the testimony of the applicant, the Board was not able to find any mitigating evidence to substantiate an inequity or impropriety. The Board found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance and concluded that the characterization, reason and reenlistment code appropriate for the reasons which were the basis for this case.

Issue 2. The applicant contends that he was not credited for the time he served in support of Operation Enduring Freedom. 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. The Board will contact the Personnel Center at Randolph Air Force Base, Texas regarding the discrepancy of the applicant's foreign duty time.

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 Seymour-Johnson AFB, NC on 21 Nov 05 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 30 Aug 79. Enlmt Age: 22 1/12. Disch Age: 26 2/12. Educ: HS DIPL. AFQT: N/A. A-52, E-64, G-55, M-69. PAFSC: 2W051 - Munitions Systems Journeyman. DAS: 3 Sep 04.

b. Prior Sv: (1) AFRes 3 Oct 01 - 3 Dec 01 (2 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Dec 01 for 6 yrs. Svd: 03 Yrs 11 Mo 18 Das, all AMS.

b. Grade Status: A1C - 29 Sep 05 (SCM, 15 Sep 05)
SrA - 18 May 04
A1C - 18 Jan 02

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: Summary Court Martial - 15 Sep 05

CHARGE: Article 112a. Plea: Guilty. Finding: Guilty.

Specification: Did, in the continental United States, between on or about 25 Jun 05 and on or about 25 Jul 05, wrongfully use marijuana. Plea: Guilty. Finding: Guilty. Sentence adjudged on 15 Sep 05: Reduction to A1C(E-3), and 20 days hard labor without confinement.

g. Record of SV: 04 Dec 01 - 15 Jul 03 Davis-Monthan AFB 5 (HAF Dir)
16 Jul 03 - 15 Jul 04 Davis-Monthan AFB 5 (Annual)
16 Jul 04 - 15 Jul 05 Seymour-Johnsont AFB 5 (Annual)

h. Awards & Decs: AFAM, NDSM, AFTR, GWOTEM, GWOTSM, AFGCM.

i. Stmt of Sv: TMS: (04) Yrs (01) Mos (19) Das
TAMS: (03) Yrs (11) Mos (18) Das

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Forms 214 (Member 4&1).
3. Request and Authorization for Separation.
4. Personal data Sheet.
5. Three Enlisted Performance Reports.
6. Air Force Achievement Medal.
7. Eight Training Certificates.
8. Enlistment and Promotion Certificates.
9. Seven Training Certificates.
10. The Enlistment Oath.
11. USAF Drug and Alcohol Abuse Certificate.
12. Job Screening Worksheet.

24AUG06/ia

Review Board:

In reference to #6 on my discharge application the following issues are the reasons my status of discharge should be changed to honorable and proof of serving in Operation Enduring Freedom should be noted on my DD Form 214.

1. When I enlisted I was honest about my previous drug use. I served a total of 45 months without getting into any trouble. The only time I got into trouble I was generally discharged. I believe that because of my past drug use I was not given a second chance and was generally discharged instead of honorably discharged.
2. I was deployed to Pakistan for 23 days when my father passed away from a sudden heart attack. I returned for his funeral with emergency leave. Upon returning to DMAFB I did not have to go back to Pakistan. There is no record of my time served in Operation Enduring Freedom. I believe that my time spent serving my country should be credited on my DD Form 214.

Thank you for your time in reviewing my package.





FD 2006-00272

DEPARTMENT OF THE AIR FORCE
4th FIGHTER WING (ACC)
SEYMOUR JOHNSON AIR FORCE BASE NC

31 Oct 05

MEMORANDUM FOR AIRMAN FIRST CLASS: [redacted]

FROM: 4 EMS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Drug Abuse. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.54. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action is:

a. Between on or about 25 Jun 2005 and on or about 25 Jul 2005, you wrongfully used marijuana. This action is documented in a Report of Result of Trial, dated 15 Sep 2005 (tab 1a).

b. On or about 1 Aug 2005, the Drug Testing Laboratory, Brooks AFB, Texas reported positive confirmation for the presence of Marijuana (THC) in the urine specimen submitted by you. This statement is documented in a memorandum from 4 MDOS/SGOH, dated 3 Aug (tab 1b).

c. The urine specimen identified by Base Identification Number F5740009960, SSAN: [redacted] and Laboratory Accession Number B0507138175, was confirmed positive for marijuana at a level of 149 ng/mL. This statement is documented in a memorandum from AFIOH/SDT (Drug Testing Division), dated 3 Aug 2005 (Tab 1c).

3. 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 United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

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 CAPT: [redacted] at 1400 L ADC on 31 Oct 05, at 0900 hours. You may consult civilian counsel at your own expense. 1 NOV 05 ^{WNN} _{SLB}

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 3 NOV 05 1700L 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 on 1 Nov 05, at 1345L hours 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 at Area Defense Counsel's Office or Orderly Room.

9. You have been scheduled for mandatory Transition Assistance Program (TAPs) counseling on 3 Nov 2005 at 1300L hours. You must report to building 3602 for your TAPs counseling.

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

Commander

Attachments:

1. Supporting Documents
 - a. Report of Result of Trial, dated 15 Sep 2005
 - b. 4 MDOS/SGOHF Memorandum, dated 3 Aug 2005
 - c. AFIOH/SDT (Drug Testing Division) Memorandum, dated 3 Aug 2005
2. Airman's Receipt of Notification Memorandum
3. Airman's Statement
4. Medical Examination
5. EPRs
6. Statement of Understanding Regarding Recoupment of Education Assistance, Special Pay, or Bonuses