

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)					GRADE		AFSN/SSAN		
					SRA				
TYPE GEN		X		PERSONAL APPEARANCE			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		INDEX NUMBER			EXHIBITS SUBMITTED TO THE BOARD				
A92.35 A92.01 A94.05		A66.00			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				
HEARING DATE		CASE NUMBER			TAPE RECORDING OF PERSONAL APPEARANCE HE				
13 Jun 2007		FD-2006-00341							
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE									
<p>Case heard in Washington, D.C. via video teleconference between Andrews AFB Maryland and Robins AFB Georgia.</p> <p>Advise applicant of the decision of the Board 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>									
INDORSEMENT					DATE: 6/25/2007				
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

FD-2006-00341

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, via video teleconference between Andrews AFB, Maryland and Robins AFB, Georgia on June 13, 2007. The following witness also testified on the applicant's behalf: Mr. S.P.

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 and based upon an isolated incident after 38 months of service. The records indicated the applicant received a Letter of Reprimand, a Letter of Counseling, and a Record of Individual Counseling for misconduct. The applicant was administratively disciplined for wrongful use of ecstasy and marijuana, undesirable attitude and low team participation, and failure to go. The DRB opined that through these administrative actions, the applicant had ample opportunities to change her negative behavior. The Board concluded the applicant's 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 her discharge did not take into account the good things she did while in the service. The DRB took note of the applicant's duty performance as documented by her 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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Hurlburt Field, FL on 14 May 02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 Jul 79. Enlmt Age: 19 7/12. Disch Age: 22 10/12. Educ: HS DIPL. AFQT: N/A. A-96, E-86, G-88, M-55. PAFSC: 4F051 - Aeromedical Journeyman. DAS: 23 Aug 99.

b. Prior Sv: (1) AFRes 11 Feb 99 - 9 Mar 99 (29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 10 Mar 99 for 4 years. Svd: 03 Yrs 02 Mo 05 Das, all AMS.

b. Grade Status: SrA - 13 Nov 01

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 31 JAN 02 - Wrongful use of ecstasy and marijuana.
RIC, 28 SEP 01 - Undesirable attitude and low team participation.
LOC, 20 APR 01 - Failure to go.

f. CM: None.

g. Record of SV: 11 Mar 99 - 15 Oct 00 Hurlburt Field 4 (HAF DIR)
16 Oct 00 - 24 Aug 01 Hurlburt Field 4 (CRO)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (03) Yrs (03) Mos (04) Das
TAMS: (03) Yrs (02) Mos (05) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 24 Aug 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's issues.
2. Court Documents
3. Personal Emails.
4. Statement of Subject/Witness/Complainant.
5. Interview Record.
6. Memorandum For 16 MSS/DPMPP, 13 Nov 01.
7. Memorandum For 16 MDOS/CC, 6 Feb 02.
8. Four Character References.
9. Response to Letter of Reprimand dated 31 Jan 02.
10. Response to Recommendation for Administrative Discharge.
11. Request for Retention, 22 Mar 02.

15NOV06/day



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 16th SPECIAL OPERATIONS WING (AFSOC)
HURLBURT FIELD, FLORIDA

13 March 2002

MEMORANDUM FOR SRA: _____

16 MDOS

FROM: 16 MDOS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically, for drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, section H, paragraph 5.54. If my recommendation for discharge is approved, your service will be characterized as Honorable or General. I am recommending that your service be characterized as General.
2. My reason for this action is that between on or about 1 October 00 and on or about 31 October 00, you committed the following offenses: wrongful use of 3, 4-methylenedioxymethamphetamine (ecstasy), a Schedule I controlled substance, and wrongful use of marijuana in direct violation of article 112a of the Uniform Code of Military Justice. You admitted to these crimes on or about 8 August 2001, during an interview with OSI for which you received a Letter of Reprimand (LOR), dated 31 January 2002. This is the sole basis in determining that you should be discharged and the characterization of your discharge.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court Martial jurisdiction or higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.
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 the Area Defense Counsel, Hurlburt Field, Florida, Bldg 90042, 884-5216/5217, on Thursday, 14 March at 0900 hours. You may consult civilian counsel at your own expense.
5. 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 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 are scheduled for a medical examination, and you should report to the Hurlburt Clinic at 0800 hours on Friday, 15 March, 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 will be provided upon your request.

Commander, 16th Medical Operations Squadron

Attachments:

Documents supporting basis for discharge

1. Memorandum for Record in response to LOR w/supporting documents, dtd 14 Feb 02
2. LOR, dtd 31 Jan 02
3. OSI Report of Investigation



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 16th SPECIAL OPERATIONS WING (AFSOC)

MEMORANDUM FOR 16 SOW/CC

29 APR 2002

FROM: 16 SOW/JA

SUBJECT: Legal Review, Administrative Discharge, SrA [REDACTED]
[REDACTED], 16 MDOS

1. **Authority for Action:** We have reviewed the attached administrative discharge package in accordance with AFD 36-32 and AFI 36-3208 and find that it is legally sufficient to support a finding that the respondent, SrA [REDACTED] is subject to discharge for misconduct, more specifically drug abuse, under AFI 36-3208, chapter 5, section H, paragraph 5.54.
2. **Background:** SrA [REDACTED] was served with a notification memorandum on 13 Mar 02. She acknowledged receipt of the notification memorandum and her rights to consult counsel, and submit statements in her behalf. On 22 Mar 02, she elected to consult counsel and submitted a written statement in her behalf.
3. **Basis for Action:** During this enlistment, the respondent, between on or about 1 Oct 00 and on or about 31 Oct 00, wrongfully used marijuana and 3,4-methylenedioxymethamphetamine (Ecstasy), a Schedule I controlled substance.
4. **Respondent's Military Record:** Respondent has been on continuous active duty since 11 Mar 99. She has received a 4 and 4 on her Enlisted Performance Reports. The respondent is entitled to wear the Air Force Training Ribbon.
5. **Respondent's Response:** The respondent consulted counsel and submitted a written statement on her behalf. SrA [REDACTED] stated in her response that she believes she deserves to stay in the Air Force and also requests a personal appearance to present her case to you. She lists several accomplishments during her time at Hurlburt Field in the medical field. SrA [REDACTED] stated that the reason she admitted to using marijuana and 3,4-methylenedioxymethamphetamine (Ecstasy), a Schedule I controlled substance was because she was going through some extremely emotional circumstances at the time she was interrogated on 22 Aug 01. According to SrA [REDACTED] the Office of Special Investigations (OSI) interrogated her for over five hours. SrA [REDACTED] stated that she felt she had no choice but to admit to using drugs because the OSI agent told her they would not believe she was innocent.
6. **Analysis:**
 - a. **Basis for Discharge:** The respondent, between on or about 1 Oct 00 and on or about 31 Oct 00, wrongfully used marijuana and 3,4-methylenedioxymethamphetamine (Ecstasy), a Schedule I controlled substance. She admitted this use during an OSI investigation and also

admitted to taking "yellow jackets" to give her peers the perception that she was using ecstasy. Although she later claimed that she had not used the illegal drugs and had lied to OSI when she claimed she had, her admission provides more than a preponderance of evidence to establish a basis for discharge under paragraph 5.54. Paragraph 5.54 states "[d]rug abuse is incompatible with military service and airman who abuse drugs one or more times are subject to discharge for misconduct."

b. Should Respondent be Discharged? In accordance with AFI 36-3208, chapter 5, section A, paragraph 6.2.1, discharge processing for drug related offenses is mandatory, unless the member meets the specified retention criteria set forth in section H, paragraph 5.55.2. The respondent has argued that she meets the criteria. We disagree. She admitted to using ecstasy and marijuana. Her admission of taking "yellow jackets" shows the extreme measures she has taken to be in the wrong crowd and in with the wrong kind of people, who obviously have an influence over her and the decisions she makes. Our conclusion, after review of the evidence included in this file, proves she should be discharged.

c. Characterization of Discharge: The initiating commander recommends a General discharge. The authorized discharges are (1) an Honorable discharge, (2) a General discharge, or (3) a discharge Under Other Than Honorable Conditions (UOTHC). However, in order to impose a UOTHC discharge, a member must be given the right to an administrative discharge board. If you believe a UOTHC discharge is appropriate, you have the option of convening an administrative discharge board. However, we do not recommend doing so. While the respondent's conduct was unacceptable, it was not so extreme as to warrant a UOTHC discharge. On the other hand, an Honorable discharge is not warranted either. An Honorable discharge should be reserved for those whose service is "so meritorious that any other characterization would be inappropriate." As the Special Court-Martial Convening Authority, you may request an Honorable discharge, but only the General Court-Martial Convening Authority, AFSOC/CC, can approve it. We believe a General discharge is the appropriate characterization of the respondent's misconduct. A General discharge should be imposed when "significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of the airman's military record." This accurately describes the respondent's service.

d. Probation and Rehabilitation: In accordance with AFI 36-3208, chapter 5, section A, paragraph 7.2.6, airmen are not eligible for probation and rehabilitation if the basis for discharge is drug abuse.

7. Errors and Irregularities: The respondent has asked for a personal appearance before you. We recommend this request be denied. The process of involuntary discharge actions does not warrant a personal appearance. There are no other errors or irregularities in the discharge package that would affect the legal sufficiency of this discharge.

8. Options: As the Special Court-Martial Convening Authority, you may:

a. Forward this package with a recommendation for waiver of discharge to the General Court-Martial Convening Authority, AFSOC/CC;

b. Forward a recommendation for separation under paragraph 5.54 with an Honorable discharge to the General Court-Martial Convening Authority, AFSOC/CC (AFI 36-3208, para 5.56.2.1);

c. Direct that the respondent be discharged from the Air Force with a General discharge without probation and rehabilitation under paragraph 5.54;

d. Direct reinitiating the package to convene an administrative discharge board if you believe that an under other than honorable conditions (UOTHC) discharge is warranted.

9. **Recommendation:** We recommend that you sign the attached letter at tab A, directing that SrA [] be discharged from the United States Air Force with a General discharge without probation and rehabilitation.

[]

Staff Judge Advocate