

# 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  SRA	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>														
TYPE GEN		PERSONAL APPEARANCE	X RECORD REVIEW														
COUNSEL YES No X		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL														
MEMBER SITTING  <div style="border: 1px dashed black; height: 100px; width: 100%;"></div>		VOTE OF THE BOARD															
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ISSUES <b>A01.07</b>	INDEX NUMBER <b>A66.00</b>	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 5%;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>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> </table>		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 <b>01 Mar 2007</b>	CASE NUMBER <b>FD-2006-00371</b>																

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.

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
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DATE: 3/5/2007

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2006-00371**

**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:**

Applicant contends that the incidents pertaining to his discharge occurred three years prior to his discharge and two years prior to the investigation. He also states that Article 43 of Uniform Code of Military Justice states that a person charged with an offense is not liable to be punished under section 815 of that title (Article 15) if the offense was committed more than two years before imposition of punishment. The record indicates that through an Air Force Office of Special Investigation (AFOSI) investigation it was revealed that the applicant did on divers occasion wrongfully use marijuana. The applicant himself admitted that he did use marijuana on two occasions and received a Letter of Reprimand. The applicant was discharged under Air Force Instruction 36-3208, Administrative Separation of Airmen, paragraph 5.54, Drug Abuse, which states that "drug abuse is incompatible with military service and airmen who abuse drugs one or more times are subject to discharge for misconduct". The Board concluded that the issue submitted by applicant did not have merit on his case and found 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.

**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 Sheppard AFB, TX on 19 Sep 03 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 1 Aug 76. Enlmt Age: 21 3/12. Disch Age: 27 1/12. Educ: HS DIPL. AFQT: N/A. A-76, E-76, G-86, M-79. PAFSC: 4Y032 - Dental Laboratory Apprentice. DAS: 19 Apr 03.

b. Prior Sv: (1) AFRes 14 Nov 97 - 12 Jan 98 (1 month 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 13 Jan 98 for 4 years. Extended on 22 Feb 02 for 23 months. Svd: 5 Yrs 08 Mo 07 Das, all AMS.

b. Grade Status: SrA - 13 Jan 01  
AlC - 15 May 99  
Amn - 15 Jul 98

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 02 MAY 03 - Wrongfully used marijuana.

f. CM: None.

g. Record of SV: 13 Jan 98 - 12 Sep 99 Robins AFB 5 (Initial)  
13 Sep 99 - 28 May 00 Robins AFB 5 (CRO)  
29 May 00 - 28 May 01 Robins AFB 5 (Annual)  
29 May 01 - 31 Mar 02 Robins AFB 5 (CRO)

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

i. Stmt of Sv: TMS: (05) Yrs (10) Mos (06) Das  
TAMS: (05) Yrs (08) Mos (07) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 11 Sep 06.  
(Change Discharge to Honorable)

Issue 1: My discharge was improper due to the fact that the incidents pertaining to my discharge occurred three years prior to my discharge and more

than two years prior to the investigation. Article 43 of the UCMJ states that a person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

**ATCH**

1. Four EPRs.
2. Certificate of Achievement.
3. Distinguished Graduate Certificate.
4. Dental Assistant Apprentice Course Certificate.
5. AF Achievement Medal.
6. Written response to discharge.
7. Five letter of recommendation.

20Oct06/day



DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND

FD 2006-00371

18 AUG 2003

MEMORANDUM FOR SRA: [REDACTED], 381TRS

FROM: 381TRS/CCQ

SUBJECT: Notification Memorandum

1. I am recommending your discharged from the United States Air Force for drug abuse. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will 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. You did, on or about 2 years ago, wrongfully used marijuana on two occasions while station at Robbins AFB, GA. The relevant content of the statement of suspect report, AF Form 1168, that sustains the preliminary report conducted by the Office of Special Investigation is in subparagraph "b." For this misconduct you received a Letter of Reprimand (LOR) on 02 May 03.

b. You used marijuana on two occasions. The first time was at SSgt: [REDACTED] home. SSgt: [REDACTED] provided the marijuana to: his wife, SrA: [REDACTED] wife, [REDACTED] and SrA: [REDACTED]. The second occasion was when [REDACTED] obtained marijuana from [REDACTED]. She took it to your home and SrA: [REDACTED] your wife, and you smoked it.

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 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 will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.

3. 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 Bldg 1638, R 110 on 20 AUG 03, at 1400 HRS. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the

separation authority to consider must reach me by 21 AUG 03 unless you request FD 2006-00371  
and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You were scheduled for a physical examination on 22 JUL 03 at 1300 <sup>HRS.</sup> at the hospital Bldg 1200, in the Student Health Clinic.

7. 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 building 1917, room 1A208.

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

Section Commander, 381TRS

Attachments:

1. LOR, 2 May 03
2. 82 MDOS/SGOHA Memo 21 Jan 03
3. AF Form 1168, SrA: [redacted], 7 Jan 03
4. AF Form 1168, SrA: [redacted], 18 Nov 02
5. AF Form 1168, SrA: [redacted], 14 Nov 02
6. AF Form 1168, SSgt [redacted], 30 Sep 02
7. Airman's Receipt to Notification Memorandum *wd*