

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB on 24 Apr 2007.

The following additional exhibits were submitted at the hearing:

- Exhibit #6: Letter from Mr. [REDACTED]
- Exhibit #7: Character letter from [REDACTED] of Parking Management, Inc.
- Exhibit #8: HANDS Program Progress Report
- Exhibit #9: American Legion Statement

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 1. The applicant contends that his discharge was inequitable because it was an isolated incident. The records indicated the applicant received an Article 15 on 18 February 1992 for the wrongful possession and use of marijuana on or about 22 January 1992. A search of the applicant's vehicle and his dormitory room uncovered vegetable appearing matter that tested positive for marijuana. Additionally, the applicant submitted to a drug urinalysis screen which confirmed the presence of the metabolite of marijuana (tetrahydrocannabinol) at a level above the Department of Defense cut-off level 15ng/ml. While experimental use of marijuana could be considered a basis for an upgrade of discharge, based upon the applicant's own testimony of illegal drug use before, during, and after his enlistment and the quantities discovered in his possession, the Board concluded that the applicant's use of marijuana on or about 22 January 2007 was not experimental. Additionally, the Board considered the possible existence of a serious mental disorder, i.e., psychotic disorder or depressive disorder, as documented in the applicant's post-service medical records, which if present at the time he committed his offense, could have contributed to his poor judgment to use drugs. However, the applicant admitted fraudulently feigning a mental illness for personal financial gain and never took his prescribed medications.

Issue 2. The applicant cited his previous immaturity and renewed desire to "serve correctly and help [his] country" by re-entering military service via the US Army; and to utilize his experience with "computing and inventory management." He also stated that he has "learned from [his] dysfunctional life" and needs to live and practice the core values that the Army will offer him. However, while the US Army may be willing to waive the applicant's re-enlistment code, the DRB determined that upgrading the discharge in this case is inappropriate.

Issue 3. The applicant also requested consideration of clemency in his case, citing the "stigma" he has suffered and the "dead-end jobs" resulting from his discharge. The DRB is not empowered to offer the applicant an upgrade under the rules of "clemency" for the General, under Honorable Conditions, service characterization he received.


CONCLUSIONS: The Discharge Review Board concluded that the applicant's 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

FD2006-00406A

 (Former AB) (HGH AMN) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a Gen Disch fr Griffiss AFB, NY on 04 Mar 92. UP AFR 39-10, para 5-51 (Misconduct - Drug Abuse). Appeals for Honorable Discharge.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 03 Jul 02.

b. The AFDRB reviewed case on 21 Aug 02 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 11 Oct 06. (Change Discharge to Honorable).

Issues: My discharge was inequitable because it was an isolated incident.

Atch

None.

21NOV6/ia

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

(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 92/03/04 UP AFR 39-10, para 5-51 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 71/06/15. Enlmt Age: 19 1/12. Disch Age: 20 8/12. Educ: HS DIPL. AFQT: N/A. A-74, E-36, G-53, M-27. PAFSC: 64530 - Inventory Management Specialist. DAS: 91/11/02.

b. Prior Sv: (1) AFRes 90/08/02 - 91/07/16 (11 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 91/07/17 for 4 yrs. Svd: 00 Yrs 07 Mo 18 Das, all AMS.

b. Grade Status: AB - 92/02/18 (Article 15, 92/02/18)
AMN - 92/01/17

c. Time Lost: none.

d. Art 15's: (1) 92/02/18, Griffiss AFB, NY - Article 112a. You did, on or about 22 Jan 92, wrongfully possess about 6 grams of marijuana. Article 112a. You did, on or about 22 Jan 92, wrongfully use marijuana. Reduction to AB, and forfeiture of \$200.00 pay per month for one month. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: none.

(Discharged from Griffiss AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (07) Mos (03) Das
TAMS: (00) Yrs (07) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/03/17.
(Change Discharge to Honorable)

Issue 1: I was immature at the time. If I had another chance I will serve

FD 2006-00406

FD2002-0131

admirably.

ATCH
none.

02/07/03/ia



DEPARTMENT OF THE AIR FORCE

416TH LOGISTICS GROUP (SAC)

GRIFFISS AIR FORCE BASE, NEW YORK 13441-5000

FD 2006-00406

25 FEB 1992

REPLY TO
ATTN OF: CC

SUBJECT: Letter of Notification - Discharge Under the Provisions of AFR 39-10

TO: AB [REDACTED], 416 SUPS

1. I am recommending your discharge from the United States Air Force for misconduct - drug abuse. The authority for this action is AFR 39-10, paragraph 5-51. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are your wrongful possession and use of marijuana at Griffiss AFB, New York, on or about 22 January 1992, for which you received an Article 15, UCMJ, dated 18 February 1992. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a 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.

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 Captain [REDACTED], at Depot 1, 2nd floor, extension 2015, on 26 FEB 92 at 1330 hours. 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 28 FEB 92 at 1500, unless you request 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 have been scheduled for a medical examination. You must report to the Griffiss AFB Hospital, physical exams section at 0700 hours on 29 FEB 92 for the examination. Uniform of the day is required.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 2. A copy of AFR 39-10 is available for your use at the 416th SUPS Unit Orderly Room.

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

Commander

2 Atchs

1. Supporting documents for the reason for discharge:
AF Form 3070, 18 Feb 92,
w/6 Atchs:
(1) AF Form 3070 Continuation Sheet
(2) Amn's Response to Article 15, 18 Feb 92
(3) Statement of Financial Status
(4) _____/AOTFR 131607Z Feb 92 Msg, Subj: Urinalysis Results
(5) Det 429 AFOSI/CC Ltr, 11 Feb 92
(6) AF Form 1168 (Amn's Statement), 5 Feb 92
2. Amn's Acknowledgment of LON