

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD									
NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)					GRADE		AFSN/SSAN		
					A1C				
TYPE UOTH		PERSONAL APPEARANCE			X		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				
A94.05		A94.07			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			
HEARING DATE		CASE NUMBER							
29 Mar 2007		FD-2006-00413							
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					DATE: 4/9/2007				
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	CASE NUMBER FD-2006-00413
<p>GENERAL: The applicant appeals for upgrade of discharge to honorable.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge is denied.</p> <p>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.</p> <p>ISSUE:</p> <p>Applicant contends discharge was inequitable because it was too harsh and based on one isolated incident in 35 months of service. The records indicated the applicant requested discharge in lieu of trial by court martial. The applicant was discharged for misconduct due to wrongful distribution of a controlled substance, Percocet. 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.</p> <p>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.</p> <p>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.</p> <p>Attachment: Examiner's Brief</p>	

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

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAF Dover AFB, DE on 6 Apr 05 UP AFI 36-3208, Chapter 4 (Triable by Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 11 Jun 83. Enlmt Age: 18 8/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-61, E-53, G-46, M-47. PAFSC: 3A051 - Information Management Journeyman. DAS: 19 Oct 02.

b. Prior Sv: (1) AFRes 20 Feb 02 - 28 May 02 (3 months 9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 29 May 02 for 4 yrs. Svd: 02 Yrs 10 Mo 08 Das, all AMS.

b. Grade Status: A1C - 29 Sep 03
Amn - 29 Nov 02

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV: 29 May 02 - 28 Jan 04 Dover AFB 4 (Initial)
29 Jan 04 - 28 Jan 05 Dover AFB 5 (Annual)

h. Awards & Decs: AFAM, AFTR, NDSM, AFOUA W/1 OLC, GWOTSM, GWOTEM.

i. Stmt of Sv: TMS: (03) Yrs (01) Mos (17) Das
TAMS: (02) Yrs (10) Mos (08) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Oct 06.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incident in my 35 months of service with no other adverse action.

ATCH

1. Three Character References.

03JAN07/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS EIGHTEENTH AIR FORCE (AMC)

FD 2006-00413

MEMORANDUM FOR 436 AW/CC

78 MAR 2008

FROM: HQ 18 AF/CC
100 Heritage Drive, Suite 106
Scott AFB IL 62225-5002

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial -
U.S. v. A1C: _____, 436 EMS, Dover AFB DE

The request for discharge in lieu of trial by court-martial submitted by A1C: _____, 436 EMS, Dover AFB DE, is approved. Under the provisions of AFI 36-3208, Chapter 4, and subject to proper medical clearances, A1C: _____ will be separated from the United States Air Force for misconduct, specifically wrongful distribution of a controlled substance, in violation of Art 112a, Uniform Code of Military Justice, with an under other than honorable conditions discharge without the opportunity for probation and rehabilitation.

Lieutenant General, USAF
Commander

Attachment:
Case File

JUL 05 2005 13:42

436 07/JM

302-677-6995

FD2006-00413
8DEPARTMENT OF THE AIR FORCE
AIR FORCE LEGAL SERVICES AGENCY

22-Mar-05

MEMORANDUM FOR 436 EMS/CC

FROM: AFLSA/ADC (Capt. [redacted])

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial - AIC [redacted]

1. Sir, I am writing on behalf of my client, AIC [redacted] to respectfully ask that you consider the information contained in this package before deciding an appropriate level of disposition in this case. As we have previously discussed, I ask that you please recommend that her request for discharge in lieu of trial by court-martial (Aitch 1) be granted.

2. If approved, AIC [redacted] request would result in an Under Other Than Honorable Conditions (UOTHC) discharge, which is the most severe administrative discharge available and which would be in the interests of justice for all parties involved. AIC [redacted] has been charged with distributing two of her prescription Percocet pills to two acquaintances back on 7 January 2005. If convicted of this brief encounter, she will not only be convicted of a Federal offense for the rest of her life, but she will also be subject to up to 12 months incarceration in an Air Force confinement facility. A UOTHC discharge will be the end of what was a potential promising career for a young woman who loves the Air Force while avoiding the cost and time of a litigated court-martial. Although a UOTHC discharge will strip AIC [redacted] of her Veterans' benefits, it will still allow her the opportunity to begin building a new civilian life.

3. Additionally, as I know you are aware, AIC [redacted] has not received any prior administrative actions or been the subject of any other investigations for prior misconduct, and up until this point, maintained a clean Air Force record. Reviewing the facts of this charged offense clearly, the knowledge associated with distributing a prescription drug is less culpable than securing and distributing a more "traditional" controlled substance like marijuana or cocaine. Finally, please consider the amount of the prescription medication alleged to have been distributed, which even by the government's own calculation amounts to two sole tablets. Although, understanding the seriousness of the charged offense, considering the circumstances of this Article 112a alleged violation, we respectfully ask for your support.

4. Thank you for your time and consideration. If you have any questions about this request, please contact me at (302) 677-6995 or wolfgang.mertz@dover.af.mil.

[redacted]
Defense Counsel

Attachments:

1. AIC [redacted] Chapter 4 Request
2. Character Letters