

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	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
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
					X
					X
					X
					X

ISSUES A93.01 A94.05	INDEX NUMBER A66.00	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 HEARING

HEARING DATE 15 Mar 2007	CASE NUMBER FD-2006-00431	
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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: 3/16/2007
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-2006-00431

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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 and one Letter of Reprimand for misconduct. The misconduct included inhaling nitrous oxide with the intent to become intoxicated and wrongfully using "magic mushrooms", a Schedule I controlled substance. The Board concluded the 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 contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 21 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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 Misawa AB, Japan on 10 Sep 03. UP AFI 36-3208, para 5.54 (Drug Abuse). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 Oct 81. Enlmt Age: 17 7/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-41, E-66, G-74, M-28. PAFSC: 1N251 - Signals Intelligence Production Journeyman. DAS: 01 Oct 01.

b. Prior Sv: (1) AFRes 14 May 99 - 14 Mar 00 (10 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 15 Mar 00 for 4 yrs. Extended 3 Mar 03 for 4 months. Extended 28 Apr 03 for 1 month. Svd: 03 Yrs 05 Mo 25 Das, all AMS.

b. Grade Status: A1C - 01 Jul 03 (Article 15, 01 Jul 03)
SrA - 15 Jul 02

c. Time Lost: None.

d. Art 15's: (1) 01 Jul 03, Misawa AB, Japan - Article 134. You, did, in Misawa City, Japan, between on or about 1 Nov 01 to on or about 30 Nov 01, wrongfully inhale nitrous oxide gas, with the intent to become intoxicated, which conduct under the circumstances was to the prejudice of good order and discipline in the armed forces. Reduction to the grade of A1C, and restriction to the limits of Misawa AB, Japan for 60 days. (No appeal) (No mitigation)

e. Additional: LOR, 01 AUG 03 - Wrongfully using "magic mushrooms", a Schedule I controlled substance.

f. CM: None.

g. Record of SV: 15 Mar 00 - 13 Jan 02 Misawa AB 4 (Initial)
14 Jan 02 - 13 Jan 03 Misawa AB 3 (Annual) REF
14 Jan 03 - 11 Aug 03 Misawa AB 2 (HAF Dir) REF

h. Awards & Decs: AFTR, NDSM, AFOUA W/VALOR.

i. Stmt of Sv: TMS: (04) Yrs (03) Mos (27) Das
TAMS: (03) Yrs (05) Mos (25) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Oct 06.
(Change Discharge to Honorable)

Issue 1: At the time of my discharge I was young an irresponsible. I feel that enough time has past to see the error I made in judgement, and make ammends.

ATCH
None.

06DEC06/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD2006-80 431

12 AUG 2003

MEMORANDUM FOR A1C: [REDACTED] 301 IS

FROM: 301 IS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Drug Abuse, in accordance with AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.54. If my recommendation is approved, your service will be characterized as under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).
2. My reasons for this action are:
 - a. From about 1 Nov 01 to on or about 30 Nov 01, you wrongfully inhaled nitrous oxide gas, with the intent to become intoxicated. For this misconduct, you received an Article 15 (Art15), dated 1 Jul 03.
 - b. Between Jan 02 to Feb 02, you wrongfully used psilocin (mushrooms). For this misconduct, you received a Letter of Reprimand (LOR), dated 1 Aug 03.
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 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, and any special pay, bonus, or education assistance funds may be subject to recoupment.
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 Captain: [REDACTED]; the Area Defense Counsel, at Building 514, on 13 Aug, 2003, at 1000 hours. You may consult civilian counsel at your own expense.
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three workdays of your receipt of this Notification Memorandum, unless you request and receive an extension for good cause shown. I will forward them to the separation authority.
6. If you fail to consult counsel or to submit statements in your own behalf within the time allotted, your failure shall constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 35th Medical Group, on TBD, 2003, at TBD hours. If you wear glasses, you must bring your glasses to the examination. If you wear contacts, you must remove them the night before 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 the Office of the Area Defense Counsel, Building 514, your orderly room, or the Base Publications Library.

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



Commander, 301st Intelligence Squadron

Date 12 Aug 03

Attachments:

- 1. Airman's Receipt of Notification Memorandum
- 2. Art 15, dtd 1 Jul 03
- 3. LOR, dtd 1 Aug 03