

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)					GRADE		AFSN/SSAN		
					AMN				
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
									X*+
									X*+
									X*+
									X*+
									X*+
ISSUES		INDEX NUMBER			EXHIBITS SUBMITTED TO THE BOARD				
A94.05 A92.00		A67.30			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							
08 May 2007		FD-2007-00009							
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.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p> <p>* Reason and Authority + Reenlistment Code</p> <div style="border: 1px dashed black; height: 40px; width: 100%; margin-top: 20px;"></div>									
ENDORSEMENT					DATE: 5/15/2007				
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-2007-00009

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are 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 on one small incident in almost four years of outstanding conduct. The applicant also expressed a desire to have his discharge upgraded so that he may qualify for reenlistment into the armed forces. The records indicated the applicant had a Special Court Martial, a Letter of Reprimand, and a Letter of Counseling for misconduct. The Special Court Martial conviction found the applicant guilty for attempted use of Vicodin, a schedule III controlled substance. He was sentenced by Officer Members to confinement for 30 days, forfeiture of pay for one month, and a reduction in grade to Airman. His records also indicated he was administratively disciplined for financial irresponsibility and failure to obey a lawful order. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his 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 his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports 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 AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Moody AFB, GA on 14 Apr 06 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge, Change the RE Code, and Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 31 Aug 84. Enlmt Age: 17 7/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-59, E-76, G-66, M-72. PAFSC: 3P051 - Security Forces Journeyman. DAS: 30 Apr 04.

b. Prior Sv: (1) AFRes 9 Apr 02 - 30 Sep 02 (5 months 22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 01 Oct 02 for 6 yrs. Svd: 03 Yrs 06 Mo 14 Das, of which AMS is 03 Yrs 05 Months 19 Days (excludes 23 days lost time).

b. Grade Status: Amn - 05 Mar 06 (SPCMO No.10, 10 Apr 06)
SrA - 22 Mar 05
A1C - 22 Nov 02

c. Time Lost: 9 Feb 06 thru 4 Mar 06 (23 days).

d. Art 15's: None.

e. Additional: LOR, 06 MAY 05 - Failure to obey a lawful order.
LOC, 13 AUG 04 - Financial irresponsibility.

f. CM: Special Court Martial Order No.10 - 10 Apr 06.

CHARGE: Article 80.

Specification: Did, in the continental United States, on or about 21 Jun 05, wrongfully use Vicodin, a schedule III controlled substance. Plea: Not Guilty. Finding: Guilty, except the words "wrongfully use Vicodin," substituting therefore the words "wrongfully attempt to use Vicodin," of the excepted words, NG, of the substituted words, Guilty. Sentence adjudged by Officer Members on 9 Feb 06: Confinement for 30 days, forfeiture of \$951.00 pay for 1 month, and reduction to airman.

g. Record of SV: 01 Oct 02 - 01 Apr 04 Malmstrom AFB 5 (HAF Dir)
02 Apr 04 - 01 Apr 05 Moody AFB 4 (Annual)

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

i. Stmt of Sv: TMS: (03) Yrs (11) Mos (13) Das
TAMS: (03) Yrs (05) Mos (19) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 03 Nov 06.

(Change Discharge to Honorable, and Change the RE Code and Reason for Discharge)

Issue 1: Discharge was based on one small incident in almost 4 years of outstanding conduct. I loved serving, based on my previous history this was one minor & isolated incident.

I would like to serve again & given another chance to prove others wrong. This is all that I know. I would like my discharge changed to honorable & my discharge code upgraded so I can reenlist.

ATCH

1. Personal Data Sheet.
2. AF Form 1359.
3. Three Character Statements.
4. Personal Statement.
5. Two Air Force Achievement Medals.
6. Eight Character References.
7. Drug Information.
8. Notification Memorandum.

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DEPARTMENT OF THE AIR FORCE

820th SECURITY FORCES GROUP (ACC)
MOODY AFB, GEORGIA 31699

FD 2007-00009

MEMORANDUM FOR Amn: [REDACTED]

FROM: 820 SFG/CCQ

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Commission of a Serious Offense, Other Serious Offenses. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52.3. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.
2. On 9 Feb 06, you were found guilty of attempted use of Vicodin, a Schedule III controlled substance, in violation of Article 80, by a special court-martial convened at Moody Air Force Base. Your punishment included reduction to E-2, forfeiture of \$950.00 for 1 month and 30 days confinement. (See Atch 1)
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 higher authority will decide whether you will be discharged or retained in the United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).
4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. You may contact Major: [REDACTED] Maxwell AFB Area Defense Counsel at DSN 493-2186 or Comm 334-953-2186. 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 by 14 Apr 06 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 have not been scheduled for a medical examination. You must report to Public Heath, Building 970 with an escort, Sgt Holden, on 11 Apr 06, at 1300 hours to pick up a DD Form 2697, Report of Medical Assessment. You must then call you Primary Care Manager (PCM) to get a same day or next day appointment. When you make the appointment you must tell your PCM that it is for a pending involuntary separation. Please return a copy along with the package to the Legal Office.
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 347 RQW/JA.

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

FD2007-00009

Section Commander

Attachments:

1. Report of Trial dated 9 Feb 06 (1 page)
2. Letter of Reprimand dated 6 May 05 (2 pages)
3. Letter of Counseling dated 13 Aug 04 (2 pages)
4. Receipt of Notification Memorandum