

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

| | | | |
|--|-------------------------------------|--|--|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 30px;"></div> | | GRADE A1C | AFSN/SSAN <div style="background-color: black; width: 100%; height: 30px;"></div> |
| TYPE GEN | <input checked="" type="checkbox"/> | PERSONAL APPEARANCE | |
| COUNSEL YES <input type="checkbox"/> No <input type="checkbox"/> | | NAME OF COUNSEL AND OR ORGANIZATION | |
| YES <input type="checkbox"/> No <input checked="" type="checkbox"/> | | ADDRESS AND OR ORGANIZATION OF COUNSEL | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
|----------------|-------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| | | | | | X |
| | | | | | X |
| | | | | | X |
| | | | | | X |
| | | | | | X |

| | | | | |
|------------------------------------|-------------------------------------|---------------------------------|--|--|
| ISSUES A94.05 A93.17 | INDEX NUMBER A67.70 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 03 Mar 2011 | CASE NUMBER FD-2009-00068 | | | |

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 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 | FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7001 |
|--|---|

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2009-00068

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 appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 03 Mar 2011.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

The following additional exhibits were submitted at the hearing:

Exhibit #5: Applicant's Contentions

FINDING: The Board denies the upgrade of the discharge, the change of reason and authority for discharge, and change of reenlistment code.

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. Applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, one Letter of Reprimand and two Records of Individual Counseling for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded that the negative aspects of the applicant's service outweighed the positive contributions he made in his Air Force career. 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. It 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.

Issue 3. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

CONCLUSION: 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 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 and determines the discharge should remain unchanged.

Attachment:

Examiner's Brief

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

OMB No. 0704-0004
OMB approval expires
Oct 31, 2009

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

ARMY CORPS

NAVY

c. GRADE/RANK AT DISCHARGE

E 3

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)

20041214

HONORABLE

☒ GENERAL/UNDER HONORABLE CONDITIONS

☐ UNDER OTHER THAN HONORABLE CONDITIONS

☒ CHANGE TO HONORABLE

☐ CHANGE TO GENERAL/UNDER
HONORABLE CONDITIONS

☐ CHANGE TO UNCHARACTERIZED
(Not applicable for Air Force)

☐ CHANGE NARRATIVE REASON FOR
SEPARATION:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION

AF OFF ACD & TNG 3C
Maxwell AFB, AL

BAD CONDUCT (Special court-martial only)

☐ UNCHARACTERIZED

☐ OTHER (Explain)

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 13. See instructions on Page 3.)

I feel like I have paid the price for my mistakes in the past.
I have matured and realized that I am not the only one
who suffers from my bad choices. I just would like with my

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 14. If military documents or medical records are relevant to your case, please send copies.)

9. TYPE OF REVIEW REQUESTED (X one)

☒ CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION
SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.

☐ I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE
WASHINGTON, D.C. METROPOLITAN AREA.

☐ I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO
(enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 12.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

☐ SPOUSE ☐ WIDOW ☐ WIDOWER ☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ OTHER (Specify)

12. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

CASE NUMBER

(Do not write in this space.)

FD 2009-00068

4 FEB 2009

b. DATE SIGNED - REQUIRED (YYYYMMDD)

20090124

PREVIOUS EDITION IS OBSOLETE.

13. CONTINUATION OF ITEM 6, ISSUES (If applicable)

being upgraded, it would help my chances of returning back to the military so I can better take care of my family. I would also like the assistance that the Montgomery GI Bill offers as well. Again I am truly sorry for upsetting my unit, my country, and my family. I would just like the opportunity to make amends and prove to myself that I am a good person and with the upgrade given, chances for that would increase. Thank you for taking time to hear my case and regardless the outcome, I am thankful for everything.

14. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

15. REMARKS (If applicable)

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (CG-122)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

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

| AFDRB BRIEF | | | | | | | |
|--|--|---|--|---------------------------------------|--|--|--|
| | | | | DOCKET # FD2009-00068 | | COMPONENT: USAF | |
| TYPE OF DISCHARGE: GENERAL | | DISCHARGE FROM MAXWELL AFB, AL | | DATE: 14 DEC 04 | | APPEALS FOR: HON DISCH, RE CODE AND NARRATIVE REASON | |
| DOB/ ENLMT AGE : 14 MAR 82 18 3/12 | | DISCH AGE: 22 9/12 | | FORMER: A1C | | B. CURRENT DOR: 15 NOV 04 | |
| | | | | HGH: SRA | | C. TIME LOST: NONE | |
| AFSC: 3A051 - INFORMATION MANAGEMENT JOURNEYMAN | | | | DEP DT: 11 DEC 99 | | ASVAB SCORES: A: 76 E: 34 G: 48 M: 38 | |
| D. ART 15: ART 15: 1 | | D. LOR, LOA, RIC, LOC: LOR: 1/ RIC: 2 | | E. SPCM / GCM: NONE | | ADDITIONAL: (IE. CIVIL CONV, CDC) NONE | |
| F. RECORD OF SERVICE (EPR/ OPR, PAST TO PRESENT): 21 JUN 00 - 21 FEB 02 BUCKLEY AFB 5 (INITIAL) 22 FEB 02 - 15 NOV 02 BUCKLEY AFB 5 (CRO) 16 NOV 02 - 15 NOV 03 MAXWELL AFB 5 (ANNUAL) | | | | | | | |
| G. AWARDS & DECS: AFAM w/1OLC, AFTR, NDSM, SAEMR, AFLSA, AFOEA, AFOUA w/1OLC | | | | | | | |
| EAD: 21 JUN 00 | | DAS: 18 FEB 03 | | H. TMS: 5 YRS, 0 MOS, 3 DAS | | TAMS: 4 YRS, 5 MOS, 25 DAS | |
| APPLN (DD FORM 293) DTD: 24 JAN 09 | | DT/ INITIALS: 19AUG09/JLL | | NPA: YES | | PA: NO | |
| RECORDS : | | MPR: | | ARMS: X | | STR: X | |
| | | | | ISSUES: YES | | ATTACHMENTS: NO | |
| AUTH FOR DISCHARGE : AFI 36-3208, PARA 5.54 & 5.49 (MISCONDUCT: DRUG ABUSE & MINOR DISCIPLINE INFRACTIONS) | | | | | | | |
| ART 15; SPMC; GCM; ADDITIONAL: <div style="margin-left: 40px;"> RIC: 11 MAR 04 - AWOL. RIC: 9 JUN 04 - FAILED TO GO. LOR: 30 JUN 04 - MISUSED GTC. ART 15: 15 NOV 04 - (ART 112A) USED MARIJUANA. </div> | | | | | | | |
| EXAMINER'S NOTE: | | | | | | | |
| NOTES: | | | | | | | |



DEPARTMENT OF THE AIR FORCE
HQ AIR FORCE OFFICER ACCESSIONS AND TRAINING SCHOOLS
MAXWELL AFB, ALABAMA 36112

01 DEC 2004

MEMORANDUM FOR [REDACTED]

FROM: HQ AFOATS

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Drug Abuse and Misconduct: Minor Disciplinary Infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraphs 5.54 and 5.49. 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. My reasons for this action are:

a. Between on or about 9 September 2004 and on or about 23 September 2004, you wrongfully used marijuana. For this act of misconduct you were punished IAW Article 15, UCMJ on 15 November 2004. The punishment consisted of a reduction to the grade of Airman First Class, suspended forfeiture of \$250.00 pay per month for 2 months. The Article 15 was filed in your existing Unfavorable Information File (UIF). (Attachment A)

b. Between on or about 6 January 2004 and on or about 17 April 2004, you misused your Government Travel Card (GTC). For this act of misconduct you received a Letter of Reprimand (LOR) on 30 June 2004. The LOR established a UIF. (Attachment B)

c. On or about 7 June 2004, you failed to go at the time prescribed to your appointed place of duty. For this act of misconduct you received a Record of Individual Counseling (RIC) on 9 June 2004. (Attachment C)

d. On or about 10 March 2004, you were absent without leave. For this act of misconduct you received a RIC on 11 March 2004. (Attachment D)

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)

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 [REDACTED] on 2 Dec 04, at 1330 hours. You may consult civilian counsel at your own expense.

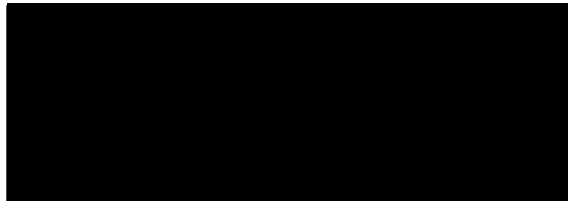
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 6 Dec 04 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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 MAXWELL AFB, 90 N. MCCracken Ave. on 3 Dec 04, at 1230 hours for the examination.

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 at UNIT ORDERLY ROOM.

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



Attachments:

1. Supporting Documents
2. Receipt of Notification Memorandum



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR UNIVERSITY (AETC)
MAXWELL AIR FORCE BASE ALABAMA

DEC 1 9 2004

MEMORANDUM FOR 42 ABW/CC

FROM: HQ AU/JA

SUBJECT: Legal Review, Administrative Discharge of [REDACTED]
[REDACTED] HQ AFOATS (AETC)

1. On 1 December 2004, [REDACTED] HQ AFOATS/CC, initiated an involuntary separation action against [REDACTED] for Drug Abuse and Minor Disciplinary Infractions under the provisions of AFM 5200, paragraph 5.54 and 5.49. He has recommended an Under Honorable Conditions (General) Discharge without probation and rehabilitation (P&R). This is a notification case, as [REDACTED] not entitled to a discharge board. I have reviewed the case file and find it legally sufficient. I recommend that you sign the proposed order separating [REDACTED] the Air Force with an Under Honorable Conditions (General) Discharge.

2. BASIS FOR ACTION:

- a. Between on or about 9 September 2004 and on or about 23 September 2004, [REDACTED] wrongfully used marijuana. For this act of misconduct he was punished IAW Article 15, UCMJ on 15 November 2004. The punishment consisted of a reduction to the grade of Airman First Class and suspended forfeiture of \$250.00 pay per month for 2 months. The Article 15 was filed in his existing Unfavorable Information File (UIF).
- b. Between on or about 6 January 2004 and on or about 17 April 2004, [REDACTED] misused his Government Travel Card (GTC). For this act of misconduct he received a Letter of Reprimand (LOR) on 30 June 2004. The LOR established a UIF.
- c. On or about 7 June 2004, [REDACTED] failed to go at the time prescribed to his appointed place of duty. For this act of misconduct he received a Record of Individual Counseling (RIC) on 9 June 2004.
- d. On or about 10 March 2004, [REDACTED] was absent without leave. For this act of misconduct he received a RIC on 11 March 2004.

3. EVIDENCE FOR THE RESPONDENT: [REDACTED]

[REDACTED] He has four years and five months of active duty service with a TTA MSD of 21 June 2000. He is entitled to wear the Air Force Training Ribbon, National Defense Service Medal, Small Arms Expert Marksmanship Ribbon, Air Force Longevity Service Award, Air Force Achievement Medal, JOLC, Outstanding Unit Award, and Air Force Organizational Excellence Award. Airman First [REDACTED] consulted legal counsel and elected to submit statements for your consideration; specifically, he requests that he be retained until February 2005, or given an honorable discharge.

4. DISCUSSION:

a. AFI 36-3208, paragraph 5.54 and 5.49 authorizes the involuntary separation of airmen who engage in Drug Abuse and Minor Disciplinary Infractions. During [REDACTED] enlistment, his misconduct has resulted in one Article 15, two RICs, and a LOR. The continuing nature of these documented instances of misconduct, despite frequent rehabilitative efforts, satisfies the requirements of the instruction and justifies discharge.

b. Characterization of service as general is appropriate when significant negative aspects of an airman's conduct outweigh positive aspects of their military record (para 1.18.2). Airman First Class [REDACTED] misconduct clearly outweighs the positive aspects of his military record. An Under Honorable Conditions (General) Discharge is warranted.

c. Per AFI 36-3208, paragraphs 5.55.2.3 and 7.2.6, this airman is not eligible for P&R because the primary basis for this discharge is drug abuse.

5. OPTIONS: As special court-martial convening authority, you may:

a. Direct that [REDACTED] be retained (para 5.56.1.1);

b. Direct that [REDACTED] be discharged with an Under Honorable Conditions (General) Discharge;

c. Refer this case to the initiating commander for processing IAW administrative discharge board procedures if you believe discharge with an Under Other Than Honorable Conditions service characterization is warranted (para 6.2.2); or

d. Forward this case to AU/CC with your recommendation that [REDACTED] be discharge with an Honorable Discharge (para 5.56.2.1).

6. **RECOMMENDATION:** I recommend that you approve an Under Honorable Conditions (General) Discharge without P&R and bar [REDACTED] from Maxwell AFB, Maxwell Family Housing Annex and Maxwell-Gunter Annex for a period of one year.

I concur.

Attachment:
Case File

[REDACTED]