

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)			GRADE		AFSN/SSAN		
<b>TYPE GEN</b>		<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No						
	<b>X</b>						
MEMBER SITTING			VOICES OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
							X
							X
							X
							X
							X
ISSUES <b>A94.55</b>		INDEX NUMBER <b>A67.70</b>		EXHIBITS SUBMITTED TO THE BOARD			
				<b>1</b>	ORDER APPOINTING THE BOARD		
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE		
				<b>3</b>	LETTER OF NOTIFICATION		
				<b>4</b>	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 <b>18 Jan 2011</b>		CASE NUMBER <b>FD-2009-00431</b>					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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>							
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742				<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, 3RD FLOOR ANDREWS AFB, MD 20762-7001			

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2009-00431**

**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 and requests that the review be completed based on the available service record.

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

**FINDING:** The Board denies the upgrade of the discharge.

**ISSUE:** Applicant received a General discharge for Misconduct-Drug Abuse

Applicant contends discharge was inequitable because it was based on one isolated incident in two years and four months of service. The applicant does submit that she believes she learned her lesson. The Board reviewed the entire record and found no evidence of inequity or impropriety in the case on which to base an upgrade of discharge. The records indicated the applicant received an Article 15 for wrongfully using marijuana. She was punished with a reduction to the grade of Airman Basic, 20 days extra duty, a suspended forfeiture of \$150.00 a month for 2 months and a reprimand. The Board concluded that the negative aspects of the applicant's service outweighed the positive contributions she made in her Air Force career. The characterization of the discharge received by the applicant was found to be appropriate.

**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 OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

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

Form Approved  
OMB No. 0704-0004  
Expires Aug 31, 2006

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 Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. 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 ADDRESS. 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.

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER		
	AB/E-1				
2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)		5. BOARD ACTION REQUESTED (X one)		
20081212	<input checked="" type="checkbox"/> HONORABLE		<input checked="" type="checkbox"/> CHANGE TO HONORABLE		
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS		<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS		
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS		<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)		
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	BAD CONDUCT (Special court-martial only)		<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:		
6 FSS	UNCHARACTERIZED				
	OTHER (Explain)				

### 6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

I feel that my discharge was inequitable because it was based on one isolated incident in two years and 4 months of service, with no other adverse action. Before the incident, I was a very respected and highly motivated airman. Those that worked around me described me as a professional and diligent troop who showed much promise and dedication to the air force. Even after the incident, my whole unit supported me and was behind my being retained. They even hired me back as a civilian after the discharge. ....

### 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 17. If military documents or medical records are relevant to your case, please send copies.)

I've attached several character statements that were used to support my case before being discharged. I've also attached my achievement medal, EPR, LOE, Letter of Therapy participation and progress, and divorce decree along with a letter from my prior husband. Please consider all of this when making your decision in this case.

### 9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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 13.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.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> OTHER (Specify)
12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)			b. TELEPHONE NUMBER (Include Area Code)		
			c. E-MAIL		
			d. FAX NUMBER (Include Area Code)		

### 13. 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.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.)
	20090710	FD-2009-00431

**14. CONTINUATION OF ITEM 6, ISSUES (If applicable)**

...I feel that I learned my lesson and served my punishment. I worked my month of extra duty, was demoted to an airman basic, received and accepted an article 15, and also a reprimand. I then waited to find out my fate for four grueling months before being discharged, all the while trying hard to keep a positive attitude. I did everything in my power to correct the situation, from participating in counseling to leaving my husband, trying to start over. I'm aware that I made a huge mistake that cost me my career in the end, but I truly believe that other than this one incident, I served honorably as an air force member. My whole unit including my squadron commanders believed in my character and was behind my being retained. Please consider this when making your decision.

**15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)****16. 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 (G-WPM)  
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							
NAME (Last, First, MI):			SSN:		DOCKET # <b>FD-2009-00431</b>		COMPONENT: <b>USAF</b>
TYPE OF DISCHARGE: <b>GENERAL</b>		DISCHARGE FROM: <b>MACDILL AFB, FL</b>		DISCHARGE DATE: <b>12 DEC 08</b>		APPEALS FOR: <b>UPGRADE DISCHARGE, CHANGE REASON FOR DISCHARGE &amp; R.E. CODE</b>	
DOB/ ENLMT AGE: <b>02 MAR 88      18</b>		DISCH AGE: <b>20</b>		FORMER: <b>AB</b>	HGH: <b>A1C</b>	B. CURRENT DOR: <b>07 AUG 08</b>	C. TIME LOST: <b>NONE</b>
AFSC: <b>3MO51 - SERVICES JOURNEYMAN</b>				DEP DT: <b>24 JAN 06</b>		ASVAB SCORES: <b>A: 63 E: 52 G: 36 M: 36</b>	
D. ART 15 / VAC: <b>ART 15: 1</b>		D. LOR, LOA, RIC, LOC: <b>NONE</b>		E. SCM / SPCM / GCM: <b>NONE</b>		ADDITIONAL: (IE. CIVIL CONV, CDC) <b>NONE</b>	
F. RECORD OF SERVICE (EPR/ OPR, PAST TO PRESENT) : <b>15 AUG 06 - 14 APR 08 MACDILL AFB 5 (INITIAL)</b>							
G. AWARDS & DECS: <b>AFAM, NDSM, GWOTSM, KDSM, AFTR</b>							
EAD: <b>15 AUG 06</b>		DAS: <b>10 DEC 07</b>		H. TMS: <b>2 YRS 10 MOS 19 DAS</b>		TAMS: <b>2 YRS 3 MOS 28 DAS</b>	
APPLN (DD FORM 293) DTD: <b>10 JUL 09</b>		DT/ INITIALS: <b>17AUG10/CM</b>		NPA/PA: <b>NPA</b>		BOARD REGION:	
RECORDS :	MPR: <b>NO</b>	ARMS: <b>YES</b>	STR: <b>YES</b>	ISSUES: <b>YES</b>		ATTACHMENTS: <b>YES</b>	
AUTH FOR DISCHARGE : <b>AFI 36-3208, PARA 5.54 (MISCONDUCT; DRUG ABUSE)</b>							
ART 15; VAC; SCM; SPMC; GCM; ADDITIONAL:  <b>ART 15: 07 AUG 08 - (ART 112A) USED MARIJUANA.</b>							
EXAMINER'S NOTE:							
NOTES:							

# APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

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

Form Approved  
OMB No. 0704-0004  
Expires Aug 31, 2006

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 Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. 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 ADDRESS. 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.

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)			c. GRADE/RANK AT DISCHARGE AB/E-1		d. SOCIAL SECURITY NUMBER
2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 20081212			4. DISCHARGE CHARACTERIZATION RECEIVED (X one)		5. BOARD ACTION REQUESTED (X one)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 6 FSS			<input type="checkbox"/> HONORABLE		<input checked="" type="checkbox"/> CHANGE TO HONORABLE
			<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS		CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
			<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS		CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
			<input type="checkbox"/> BAD CONDUCT (Special court-martial only)		CHANGE NARRATIVE REASON FOR SEPARATION TO:
			<input type="checkbox"/> UNCHARACTERIZED		
			<input type="checkbox"/> OTHER (Explain)		

## 6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

I feel that my discharge was inequitable because it was based on one isolated incident in two years and 4 months of service, with no other adverse action. Before the incident, I was a very respected and highly motivated airman. Those that worked around me described me as a professional and diligent troop who showed much promise and dedication to the air force. Even after the incident, my whole unit supported me and was behind my being retained. They even hired me back as a civilian after the discharge. ....

## 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 17.)

If military documents or medical records are relevant to your case, please send copies.)

I've attached several character statements that were used to support my case before being discharged. I've also attached my achievement medal, EPR, LOE, Letter of Therapy participation and progress, and divorce decree along with a letter from my prior husband. Please consider all of this when making your decision in this case.

## 9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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 13.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.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> OTHER (Specify)
12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)			b. TELEPHONE NUMBER (Include Area Code)		
			c. E-MAIL		
			d. FAX NUMBER (Include Area Code)		

## 13. 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.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD) 20090710	CASE NUMBER (Do not write in this space.) FD-2009-00431
--	--	---

**14. CONTINUATION OF ITEM 6, ISSUES (If applicable)**

...I feel that I learned my lesson and served my punishment. I worked my month of extra duty, was demoted to an airman basic, received and accepted an article 15, and also a reprimand. I then waited to find out my fate for four grueling months before being discharged, all the while trying hard to keep a positive attitude. I did everything in my power to correct the situation, from participating in counseling to leaving my husband, trying to start over. I'm aware that I made a huge mistake that cost me my career in the end, but I truly believe that other than this one incident, I served honorably as an air force member. My whole unit including my squadron commanders believed in my character and was behind my being retained. Please consider this when making your decision.

**15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)****16. 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 (G-WPM)  
2100 Second Street, S.W. Room 5500  
Washington, DC 20593



DEPARTMENT OF THE AIR FORCE  
6TH AIR MOBILITY WING (AMC)  
MACDILL AIR FORCE BASE FLORIDA

SEP 19 2008

MEMORANDUM FOR AB

FROM: 6 SVS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Drug Abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as Under Honorable Conditions (General) service characterization.
2. My reasons for this action are that on or about 01 Apr 08 and on or about 06 May 08, you wrongfully used marijuana. These incidents resulted in Non-Judicial Punishment under Article 15, UCMJ, dated 07 Aug 08. Punishment consisted of reduction to the grade of Airman Basic, Forfeiture of \$150.00 pay per month for 2 months, suspended through 06 Feb 08, 20 days extra duty, with a new date of rank of 07 Aug 08 and a reprimand. (Atch 1)
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial jurisdiction or a 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.
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 \_\_\_\_\_ at Hangar 4, Suite 3, on 22 Sep, at 0800 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 by 24 Sep/1000 (3 workdays) 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 been scheduled for a medical examination. You must report to the Patriot or Liberty Clinic, 8415 Bayshore Blvd on 24 Sep, at 0800 hours for 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 6th Air Mobility Wing Legal Office, located in building 299 on Hangar Loop Drive.

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

Commander, 6th Services Squadron

Attachments:

1. AF Form 3070, dated 7 Aug 08 (4 pgs)



DEPARTMENT OF THE AIR FORCE  
6TH AIR MOBILITY WING (AMC)  
MACDILL AIR FORCE BASE FLORIDA

MEMORANDUM FOR 6 AMW/CC

DEC 03 2008

FROM: 6 AMW/JA

SUBJECT: Legal Review of AFPD 36-32 and AFI 36-3208 Discharge Action:

1. Lt Col 6 SVS/CC, as required, has recommended that AB be involuntarily separated with an Under Honorable Conditions (General) discharge service characterization pursuant to AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.54, Drug Abuse. However, Lt Col has also filed a memorandum for waiver of discharge pursuant to paragraph 5.55.2 *Retention Criteria and Consideration*. The reasons set forth in the Commander's Recommendation Letter, with accompanying documentation, are legally sufficient to support action under this provision of the instruction.

2. FACTS: The events providing the basis for this discharge occurred during AB current enlistment, a 6-year term which began 15 Aug 06, and are detailed below:

AB, did, within the continental United States, on divers occasions, between on or about 01 Apr 08 and on or about 06 May 08, wrongfully use marijuana. This misconduct resulted in Non-Judicial Punishment (NJP) under Article 15, Uniform Code of Military Justice (UCMJ), dated 07 Aug 08. Punishment consisted of a Reduction to the grade of Airman Basic with a new date of rank of 07 Aug 08, forfeiture of \$150.00 pay per month for 2 months, suspended through 06 Feb 09, after which time it will be remitted without further action, unless sooner vacated, 20 days extra duty, and a reprimand.

3. MEMBER'S RESPONSE: AB has consulted military legal counsel and has submitted a written response outlining the unique characteristics of her situation. AB spoke at length about her situation with her former husband and how that relationship affected her duties as an Airman.

4. ANALYSIS:

a. Appropriateness of Discharge: Lt Col 1 initiated discharge against AB based upon her drug abuse. She has received an Article 15 for drug abuse. Therefore, a basis for discharge pursuant to AFI 36-3208, para. 5.54 exists and was an appropriate course of action for the commander to take.

b. Appropriateness of Retention: Lt Col has further requested a waiver of discharge for AB after giving full consideration to the nature of her offense, matters in

extenuation, her military record, potential for service, and evaluation of retention criteria in AFI 36-3208, para 5.55.2.1 states that a member found to have abused drugs will be discharged unless the member meets all seven criteria detailed in the AFI. The seven criteria are as follows:

(1) Drug abuse is a departure from the member's usual and customary behavior. AB has provided a detailed written statement outlining how she came to test positive for marijuana, and has further provided twenty-six character statements from current and former Officers, Civilian co-workers and supervisors, Senior NCOs, NCOs, and fellow Airman. Further, both her Commander Lt Col and her First Sergeant MSgt have backed her request to be retained.

(2) Drug abuse occurred as the result of drug experimentation (drug experimenter being defined as one who has illegally or improperly used a drug for reasons of curiosity, peer pressure, or other similar reasons). Lt Col asserts that AB use meets the requirement of drug experimentation as it was the result of peer pressure placed on her by her former spouse who exposed and subjected her to marijuana.

(3) Drug abuse does not involve recurring incidents, other than drug experimentation as defined above. Prior to her experimentation incidents, AB has never tested positive. Following her positive tests AB has repeatedly tested negative when she was randomly tested.

(4) 5.55.2.1.4 The member does not desire to engage in or intend to engage in drug abuse in the future. Lt Col expressed great confidence based on both AB written statements and actions which include divorcing her husband and having a restraining order issued.

(5) 5.55.2.1.5 Drug abuse under all the circumstances is not likely to recur. Lt Col is confident that AB has taken all necessary steps to ensure that she will refrain from illegal drug use in all circumstances in the future.

(6) 5.55.2.1.6 Under the particular circumstances of the case, the member's continued presence in the Air Force is consistent with the interest of the Air Force in maintaining proper discipline, good order, leadership, and morale. Lt Col states that the retention of AB would meet the criteria in this clause

(7) Drug abuse did not involve drug distribution. There is no indication that this case involved the distribution of any drugs.

c. Characterization of Service: Discharges under this paragraph can be characterized as Honorable, Under Honorable Conditions (General) or Under Other Than Honorable Conditions (UOTHIC):

(1) Honorable or Under Honorable Conditions (General): According to AFI 36-3208,

paragraph 5.48.4, when a discharge action under paragraph 5.54 is initiated, an honorable discharge is only warranted when the member's service is so meritorious that any other characterization would be "clearly inappropriate". A general discharge is given when the airman's service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. The foregoing case file supports the commander's recommendation to characterize AB service as Under Honorable Conditions (General). AB

record contains a sufficient disciplinary infraction to outweigh the positive aspects of her short service. There is no indication in her military record that her duty performance has been so exemplary that it would be "clearly inappropriate" to give her a general discharge. As a result, the commander's recommendation of an Under Honorable Conditions (General) discharge is supported and is appropriate in this case.

(2) UOTHHC: AFI 36-3208, para. 1.18.3, states that an Under Other Than Honorable Conditions discharge should be given when basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen.

d. Probation and Rehabilitation (P&R). According to AFI 36-3208, para 7.2.6.7 states that Airmen are not eligible for P&R if the reason for discharge is drug abuse. Therefore, AB is not eligible for P&R.

5. ERRORS AND IRREGULARITIES: None. All procedures required by AFI 36-3208 have been properly complied with and the case has been appropriately processed.

6. CONVENING AUTHORITY OPTIONS: As the Special Court-Martial Convening Authority, you may take one of the following actions in this case:

- a. Forward the package to 18 AF/CC with a recommendation that Respondent be retained in the Air Force.
- b. Direct that Respondent be discharged and furnished an Under Honorable Conditions (General) discharge without P&R.
- c. Forward the package to 18 AF/CC with a recommendation that Respondent be discharged from the Air Force with an UOTHHC.
- d. Forward the package to 18 AF/CC with a recommendation that Respondent be discharged from the Air Force with an Honorable discharge.

6. **Conclusion:** I recommend you forward AB package to 18 AF/CC with a recommendation that she be retained in the Air Force. We have attached a letter (Tab 1) for your signature to implement this recommendation should you concur

Chief, Adverse Actions

I concur.

Staff Judge Advocate

Attachment:  
Discharge Package