

X

MEMBERS SITTING

VOICE OF THE BOARD

HON	GEN	UOTHC	OTHER	DENY
				X
				X
				X
				X
				X

ISSUES  
A94.05

INDEX NUMBER  
A67.70

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  
20 AUG 02

CASE NUMBER  
FD2001-0545

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

REMARKS  
Case heard at Washington, D.C.

Advise applicant of the decision of the Board, the right to a personal appearance, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER  
[Redacted]

SIGNATURE OF BOARD PRESIDENT  
[Redacted]

INDORSEMENT

DATE: 20 AUG 02

TO: SAF/MIBR  
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, 3<sup>RD</sup> FLOOR  
ANDREWS AFB, MD 20762-7002

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD01-0545

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable, and to change the Reason and Authority for discharge.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

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

**FINDINGS:** Upgrade of discharge is denied.

The board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

**ISSUE:** The applicant is not contending that his discharge was inequitable. He would like his discharge upgraded so that he will be eligible for education benefits. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated the applicant received an Article 15 for wrongfully using marijuana. The DRB took note of the applicant's duty performance as documented by his performance reports, nominations for awards, and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the drug abuse was a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.

**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 01/04/02 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge and to Change the Reason and Authority for Disch.

2. **BACKGROUND:**

a. DOB: 80/04/15. Enlmt Age: 17 9/12. Disch Age: 20 11/12. Educ:HS DIPL. AFQT: N/A. A-56, E-62, G-55, M-58. PAFSC: 2A651A - Aerospace Propulsion Jet Engines Journeyman. DAS: 99/01/03.

b. Prior Sv: (1) AFRes 98/02/09 - 98/07/28 (5 months 20 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 98/07/29 for 4 yrs. Svd: 01 Yrs 08 Mo 04 Das, all AMS.

b. Grade Status: A1C - 01/03/05 (Article 15, 01/03/05)  
 SRA - 00/11/29

c. Time Lost: none.

d. Art 15's: (1) 01/03/05, Seymour Johnson AFB, NC - Article 112a. You did, between on or about 30 Oct 00, wrongfully use marijuana. Reduction to A1C, forfeiture of \$250.00 pay per month for 2 months, and a reprimand.  
 (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 98/07/29 - 00/03/28 Seymour Johnson AFB 5 (Initial)

(Discharged from Seymour Johnson AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (03) Yrs (01) Mos (24) Das  
 TAMS: (01) Yrs (08) Mos (04) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 01/10/04.

(Change Discharge to Honorable and Change the Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Letter of Reference.
4. Letter of Appreciation.
5. Certificate of Outstanding Achievement.

02/03/26/ia

[REDACTED] being of sound, mind, and heart would request that the character of my discharge be changed to honorable. I honestly believe that my service in the Airforce was honorable, and that my misconduct in no way can outweigh the excellence that I exemplified within my flight, squadron, and the U.S. Airforce.

While at basic training I marched the flight in drill competition, and was the leader of the percussion section in the BMT marching band. After completing basic training, the task of completing technical school at Sheppard AFB was in front of me. At technical training I continued to excel. I was named student of the month, and held the title of having the dormitory room of the month simultaneously. Even while maintaining an "A" average I was a key member of the 361st training squadrons flag football team. I graduated with a 98% average.

After the completions of basic and technical training I received my first duty assignment. I was assigned to the 4th fighter wing at Seymour-Johnson AFB. While there I was a member of the Seymour-Johnson honorguard where I received recognition for being the most improved airman, and airman of the month. As a member of the component repair squadron I received the golden belt award, and made a superior ratings on EPR's before making the greatest mistake of my life. I volunteered time at the St. Stevens Soup Kitchen, Meals on Wheels, and the Airman's Attic.

Furthermore, as a member of the 4th CRS, I completed upgrade training and became a 5 level mechanic, and trained new airmen. My mechanical abilities as a young airman were beyond the average airman. My expertise contributed to the flights production of 240 engines in twelve months. As a result I was also a recipient of the Airforce Outstanding unit award.

In conclusion, I have realized that I have made a grave mistake, and I feel that I have let my superior and comrades down and demolished my chances of being one of the finest technicians assigned to the 4th CRS. I have also realized that my misconduct was simply because of immaturity, hanging with the wrong crowd, and poor decision making

off duty. I really regret the mistake I made. I am now recovering as a civilian, but underneath my clothes I am still Airforce blue. I am now a full-time student of National Aviation Academy where I will continue my education in the Aerospace career field. Upon graduation, I will have an associates in Aviation Maintenance Technology, Airframe and Powerplant liscenses, and federal communications certification license. It is very hard to survive without my educational benefits. Work is scarce, and my parents have helped as much as they can. If I can't get any assistance I will have to drop out of college. The benefits will help both my parents and I. My main concern is getting an honorable discharge. My service in the Airforce was outstanding and honorable except for the one isolated incident which led to my administrative discharge. I apologize for my misconduct, and would like to thank you for your time and consideration. Last but not least with my country being in war I hope that I will become eligible for enlistment again in the reservoirs, guard, or active duty in the military if not the Airforce. Once again I apologize for my misconduct, and would like to thank you for your time and considerations.



DEPARTMENT OF THE AIR FORCE  
4TH FIGHTER WING (ACC)  
SEYMOUR JOHNSON AIR FORCE BASE NC

FD2001-0545

28 March 2001

MEMORANDUM FOR 4 FW/CC

FROM: 4 FW/JA

SUBJECT: Legal Review—Discharge Under AFI 36-3208, Chapter 5, Section H, Paragraph 5.54,  
[REDACTED] CRS

1. HISTORY: The 4th Component Repair Squadron Commander has recommended that [REDACTED] be discharged from the Air Force for misconduct, specifically drug abuse. The basis for this recommendation is AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. The commander recommends a general discharge without a period of probation and rehabilitation (P&R). The respondent is eligible for, and has been processed by, notification procedures in accordance with AFI 36-3208, Paragraph 6.2. The respondent consulted counsel and did submit a statement in his own behalf. [REDACTED] statement is at Tab 6.

2. BASIS FOR ACTION: On or about 30 November 2000, [REDACTED] provided a consensual urine specimen. On or about 20 December 2000, his commander was notified that the specimen he provided tested positive for the presence of tetrahydrocannabinol (THC). On or about 23 February 2001, the [REDACTED] was given an Article 15 for wrongfully using marijuana, resulting in his demotion to Airman First Class.

3. EVIDENCE FOR THE RESPONDENT: [REDACTED] is 20 years old and has served on active duty since 29 July 1998. The respondent has received one enlisted performance report, with a rating of five (5). In his statement, [REDACTED] acknowledges that through his own misconduct, he has failed to meet his goals in the Air Force and that he let his commander down. He requests an honorable discharge.

4. ERRORS AND IRREGULARITIES: None

5. CONCLUSIONS:

a. Discharge is appropriate under AFI 36-3208, Chapter 5, Section H, Paragraph 5.54, which states that drug abuse is incompatible with military service and that airmen who abuse drugs one or more times are subject to discharge for misconduct. Members who abuse drugs adversely affect the ability of the Air Force to maintain discipline, good order, and morale; foster mutual trust and confidence among members; facilitate assignments and worldwide deployment; recruit and maintain members; maintain public acceptability of military service and prevent breaches of security. A member found to have abused drugs will be discharged unless the member meets all seven of the criteria listed in AFI 36-3208, Paragraph 5.55.2.1. The burden for proving these criteria is on the member, according to paragraph 5.55.2.2. [REDACTED] has not presented any evidence to show he meets the seven criteria necessary for retention.

*Global Power For America*

b. **Characterization of Service:** I concur with the commander's recommendation of a general discharge. According to AFI 36-3208, Paragraph 5.48.4, an honorable characterization is appropriate in a discharge for misconduct when "the member's record has been so meritorious that any other characterization would be clearly inappropriate." In such cases, the GCM convening authority approves the service characterization. On the other hand, a general discharge is warranted, according to paragraph 1.18.2, when "significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record." [REDACTED] wrongful abuse of drugs outweighs the positive aspects of his service; therefore, a general discharge is appropriate.

c. **Probation and Rehabilitation:** Members approved for discharge for drug abuse are not eligible for probation and rehabilitation in accordance with AFI 36-3208, Paragraph 7.2.6.

6. **LEGAL SUFFICIENCY:** This case file is legally sufficient, contingent upon a finding that the respondent is medically qualified for worldwide duty.

7. **OPTIONS:** As the separation authority, you have the following options in this case:

a. Retain the respondent; or

b. Approve separation and discharge the respondent with a general discharge without probation and rehabilitation; or

c. Approve separation and recommend to the 9 AF/CC that the respondent be discharged with an honorable discharge without probation and rehabilitation; or

d. If you believe an under other than honorable conditions (UOTHC) discharge is appropriate, return the case file to the squadron commander and direct processing by administrative board procedures IAW AFI 36-3208, paragraph 6.13.

8. **RECOMMENDATION:** That you approve the separation of [REDACTED] from the United States Air Force with a general discharge, without probation and rehabilitation, by signing the attached memorandum.

[REDACTED]  
[REDACTED]  
[REDACTED] Lt Col, USAF  
Staff Judge Advocate

Attachment:

Case File [REDACTED]





DEPARTMENT OF THE AIR FORCE  
4TH FIGHTER WING (ACC)  
SEYMOUR JOHNSON AIR FORCE BASE NC

FD 2001-0545

22 MAR 01

MEMORANDUM FOR A1C [REDACTED] 4 CRS

FROM: 4 CRS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically drug abuse. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.54. Pursuant to table 1.3 and paragraph 5.48 of AFI 36-3208, your service can be characterized as honorable, general or under other than honorable conditions. I am recommending your service be characterized as general.
2. My reason for this action: On or about 30 November 2000, you consented to provide and provided a urine specimen. On or about 20 December 2000, I was notified that the specimen you provided tested positive for Tetrahydrocannabinol (THC). On or about 23 February 2001, you were given an Article 15 for wrongfully using marijuana, resulting in your demotion to Airman First Class. This is evidenced by an AF Form 3070, dated 23 February 2001, with attachments (Tab 1a).
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.
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] Area Defense Counsel, at 1185 Cannon Street, Suite 308, Seymour Johnson AFB NC. The Area Defense Counsel can be reached at ext. 2-5345 or DSN 722-5345. Your appointment has been scheduled on 23 Mar 01 (date) at 0830 (time). 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 27 Mar 01 (allow three duty days) 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 mandatory medical examination at the Physical Examination Section, 4th Medical Group, Seymour Johnson AFB, at 0930 hours on 20 March 2001. You are scheduled for a mandatory follow-up examination at Family Practice (Gold Team) at 1015 hours on 20 March 2001. You must report 15 minutes prior to each appointment time.

*Global Power For America*

Tab 1  
11-27

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AF1 33-332 is available for your use at the unit orderly room or the Area Defense Counsel office.

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



Major, USAF  
Commander

Attachments:

Supporting Documentation:

- a. AF Form 3070, dated 23 February 2001 w/atchs