

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE A1C	AFSN/SSAN [REDACTED]
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X PERSONAL APPEARANCE	RECORD REVIEW								
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	X								

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
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	X				

ISSUES A94.54	INDEX NUMBER A66.00	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: left;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> <tr> <td style="width: 5%; text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </table>	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
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HEARING DATE 3 APR 02	CASE NUMBER FD2002-0384																	

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 Andrews AFB, MD
Change Reason and Authority to Secretarial Authority

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

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 3 APR 03
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 RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

GENERAL: The applicant appeals for upgrade of discharge to Honorable and change in his reenlistment code.

The applicant appeared and testified before the Discharge Review Board (Board) without counsel at Andrews AFB, MD on October 31, 2002. The following witnesses testified on his behalf: Mr. DK (his brother) and Ms. AM (his fiancé).

FINDINGS: Upgrade of discharge is approved.
Request for upgrade of reenlistment code is denied.

The Board finds that evidence of record and that provided by the applicant substantiates an inequity that would justify a change of discharge.

ISSUES: The applicant's issues are listed in the attached brief. The applicant contends his discharge was too harsh because his ingestion of an illegal drug was unintentional. He further cites his excellent duty performance and post service conduct as reflective of his true character and ability to serve. The applicant was discharged with an under honorable conditions (general) discharge for an isolated drug abuse infraction after 2 years, 9 months and 25 days of service. Except for one Letter of Reprimand for illegal drug use, there is no misconduct. The applicant's EPR reflects very good duty performance with an overall 5 (nearly firewall). Evidence of the record and testimony indicated on the date of the alleged drug use, the applicant had been drinking heavily at a civilian club to the point of extreme intoxication. A fall resulted in a serious head injury requiring hospitalization. Urine obtained at the time of hospitalization revealed the presence of an illegal drug. The applicant has no recollection of knowingly ingesting an illegal drug but evidence in the record from credible witnesses obtained during formal investigation supported the applicant's claim of unknowing ingestion. The DRB noted the applicant's acceptance of responsibility for his behavior and his recognition that alcohol abuse contributed to his difficulties and his reported abstinence since discharge was also noted.

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.

However, in view of the foregoing findings the Board further concludes that there exists an equitable basis for upgrade of discharge, that the overall quality of the applicant's service is more accurately reflected by an Honorable discharge, and the reason for discharge more accurately described as Secretarial Authority. The applicant's discharge should be upgraded to Honorable and Secretarial Authority; under the provisions of Title 10, USC 1553.

Attachment
Examiner's Brief

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

MISSING ENLISTMENT DOCUMENTS

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 7 AUG 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 20 May 79. Enlmt Age: 19 1/12. Disch Age: 22 2/12. Educ: HS DIPL. AFQT: N/A. A-56, E-62, G-50, M-71. PAFSC: 2W151E - Aircraft Armament Systems Journeyman. DAS: 26 Apr 99.

b. Prior Sv: (1) AFRes 25 Jun 98 - 13 Oct 98 (3 months 19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 14 Oct 98 for 6 yrs. Svd: 2 Yrs 9 Mo 25 Das, all AMS.

b. Grade Status: A1C - 28 Nov 98

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 5 APR 01 - Drug abuse.

f. CM: None.

g. Record of SV: 14 Oct 98 - 15 Apr 00 Seymour Johnson AFB 5 (HAF Dir)

(Discharged from Seymour Johnson AFB)

h. Awards & Decs: AFAM, AFTR, AFOUA.

i. Stmt of Sv: TMS: (3) Yrs (1) Mos (14) Das

TAMS: (2) Yrs (9) Mos (25) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Aug 02.
(Change Discharge to Honorable)

Issue 1: My name is ----- and I have set new goals in my life. I am 23 years old and a Christian currently employed as a personal trainer at ----- gym. At my job I get to help others feel better about themselves and to be a part of something good in someones (sic) life. There is no better reward than this. I intend to start school in the fall to pursue my career in the medical field possibly in physical therapy. I will be able to better myself and help others in the process. This is just a brief glimpse of who I am and who I want to

become. I thank you for your time and support.

ATCH

1. Applicant's Issues.
2. Four Character References.
3. Criminal Record Check.
4. DD Form 214.
5. VA Cover Letter.

12DEC02/ia



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

FD 2002-0 384

17 APR 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,
A1C [REDACTED] 336 FS

1. HISTORY: The 336th Fighter Squadron Commander has recommended that A1C [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 did consult military counsel and submitted a statement in his own behalf. His statement is at Tab 5.

2. BASIS FOR ACTION: On or about 31 October 2000, [REDACTED] ingested into his body the drug Lysergic Acid Diethylamide (LSD) while attending a Halloween Block Party in Greenville, North Carolina. On or about 5 April 2001, [REDACTED] was given a Letter of Reprimand for this incident.

3. EVIDENCE FOR THE RESPONDENT: [REDACTED] is 21 years old and has served on active duty since 14 October 1998. The respondent has received one (1) enlisted performance report with an overall rating of 5. In his statement, [REDACTED] states that he cannot remember everything that happened that night or exactly why he ended up in a hospital. He disagrees with being discharged and feels his commander is doing what he thinks is best for the squadron and [REDACTED] respects that. He requests you consider the character statements attached to his response.

4. ERRORS AND IRREGULARITIES: [REDACTED] has been the subject of a medical board due to injuries received on 31 October 2000. If approved for discharge, this package will be added to his medical evaluation board package at AFPC and then forwarded to the Secretary of the Air Force for final characterization of his discharge.

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. A1C Ramsey has not presented any evidence to show he meets the seven criteria necessary for retention.

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

c. Approve separation and discharge the respondent with a general 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]

Attachment:

Case File [REDACTED]



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

FD 2002-0384

9 APR 01

MEMORANDUM FOR A1G [REDACTED]

FROM: 336 FS/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 reasons for this action: On or about 31 October 2000, you ingested into your body the drug Lysergic Acid Diethylamide (LSD) while you were attending a Halloween Block Party in Greenville, North Carolina for which you were given a Letter of Reprimand. These actions are evidenced by a Letter of Reprimand, dated 5 April 2001 (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 [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 10 APR 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 12 APR 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 4th Medical Group, Seymour Johnson AFB. You must report to Physical Exams at 0715 hours on 11 April 2001. A follow-up appointment has been scheduled with the Red Team at 0810 hours on 11 April 2001 with [REDACTED]. You must report 15 minutes prior to your scheduled appointments.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 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.



Attachments:

Letter of Reprimand, dated 5 April 2001