

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		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 A94.05	INDEX NUMBER A67.10	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 DATE 09 Apr 2004	CASE NUMBER FD-2003-00562	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at Washington, D.C.

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

[Signature]

INDORSEMENT		DATE: 4/9/2004
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-2003-00562

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 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 is denied.

ISSUE: Applicant does not contest the discharge; he merely states that it has been over six months since his discharge. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal. The records indicated the applicant received two Article 15s and an AF Form 3545, all three for drinking under age. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the 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.

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

[REDACTED]
(Former AB) (HGH A1C)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch from Seymour Johnson AFB, NC on 28 Mar 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.
2. **BACKGROUND:**
 - a. DOB: 20 Feb 83. Enlmt Age: 17 8/12. Disch Age: 20 1/12. Educ: HS DIPL. AFQT: N/A. A-40, E-38, G-46, M-44. PAFSC: 3E331 - Structural Apprentice. DAS: 18 Jul 02.
 - b. Prior Sv: (1) AFRes 6 Nov 00 - 10 Dec 01 (1 yr 1 month 5 days)(Inactive).
3. **SERVICE UNDER REVIEW:**
 - a. Enlisted as AB 11 Dec 01 for 6 yrs. Svd: 1 Yrs 3 Mo 18 Das, all AMS.
 - b. Grade Status: AB - 16 Dec 02 (Article 15, 16 Dec 02)
A1C - 28 Jan 02
 - c. Time Lost: None.
 - d. Art 15's: (1) 16 Dec 02, Seymour Johnson AFB, NC - Article 92. You, who knew of your duties, between on or about 26 Nov 02 and 27 Nov 02, were derelict in the performance of those duties in that you willfully consumed alcoholic beverages while under the legal age of twenty-one, as it was your duty not to do. Reduction to AB. (No appeal) (No mitigation)

(2) 29 Aug 02, Seymour Johnson AFB, NC - Article 92. You, who knew of your duties, on or about 11 Aug 02, were derelict in the performance of those duties in that you willfully consumed alcoholic beverages while under the legal age of twenty-on, as it was your duty not to do. Suspended reduction to AB. (No appeal) (No mitigation)
 - e. Additional: AF Form 3545, 29 Dec 02 - Underage drinking and apprehended for driving under the influence of alcohol.
 - f. CM: None.
 - g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (4) Mos (23) Das
TAMS: (1) Yrs (3) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 5 Nov 03.
(Change Discharge to Honorable)

Issue 1: Over 6 months have past since seperation (sic).

ATCH

1. DD Form 214 (Member-1).
2. AF Form 100.

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DEPARTMENT OF THE AIR FORCE

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

FD 2003-00 562

DEC 19 2002

MEMORANDUM FOR AB [REDACTED]

FROM: 4 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically minor disciplinary infractions. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.49. According to Table 1.3 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 are:
 - a. On 11 August 2002, you were derelict in the performance of your duties in that you willfully consumed alcoholic beverages while under the legal age of 21, as it was your duty not to do. For this misconduct, you received an Article 15. This is documented by an AF Form 3070, dated 22 August 2002 (Tab 1a).
 - b. Between on or about 26 November 2002 and 27 November 2002, you were derelict in the performance of your duties in that you willfully consumed alcoholic beverages while under the legal age of 21, as it was your duty not to do. For this misconduct, you received an Article 15. This is documented by an AF Form 3070, dated 9 December 2002 (Tab 1b).
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 19 DEC 02 (date) at 1500 (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 24 DEC 02 (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.

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7. You have been scheduled for a mandatory medical examination at the 4th Medical Group, Seymour Johnson AFB, **Family Practice Gold Team at 1320 hours on 20 December 2002** (you must report 20 minutes prior to appointment).
8. You have been scheduled for Transition Assistance Program (TAPs) counseling on 20 December 2002 at 0800 hours. You must report to building 3602 for your TAPs counseling.
9. 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 unit orderly room or the Area Defense Counsel office.
10. Execute the attached acknowledgement and return it to me immediately.



Commander

Attachments:

Supporting Documentation:

- a. AF Form 3070, dated 22 August 2002
- b. AF Form 3070, dated 9 December 2002



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

FD 2003-00562

MAR 17 2003

MEMORANDUM FOR AIRMAN [REDACTED]

FROM: 4 CES/CC

SUBJECT: Addendum to Notification Memorandum, dated 19 December 2002

1. On 19 December 2002, you were notified of my intent to recommend involuntary administrative discharge action against you for misconduct, specifically minor disciplinary infractions. The authority for my recommendation was AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.49. Subsequent to the initiation of your proposed administrative discharge, you engaged in additional misconduct. The purpose of this addendum is to add your additional misconduct as part of the reasons for your proposed discharge.
2. Accordingly, my reasons for your proposed discharge included the previous reasons cited in your 19 December 2002 discharge notification memorandum and the following additional misconduct: On or about 29 December 2002, you wrongfully consumed alcohol while under the legal age of twenty-one and you operated a motor vehicle while intoxicated. On 29 December 2002, at approximately 0315 hours, you were apprehended at the main gate of Seymour Johnson AFB for driving under the influence. A blood alcohol test indicated that your blood alcohol content was 0.257 percent. (see attached 4th Security Forces Incident Report).
3. You have the right to again consult with your counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] Area Defense Counsel, 1185 Cannon Street, Suite 308, Seymour Johnson AFB, NC. The Area Defense Counsel can be reached at extension 2-5345 or DSN 722-5345. Your appointment has been scheduled for 18 March 03 (date) at 0800 (time). You may also consult civilian counsel at your own expense.
4. You have the right to submit additional statements in your own behalf. Any statements you want the separation authority to consider must reach me by 0930 20 March 03 (allow three duty days) 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. Execute the attached acknowledgement and return it to me immediately.

[REDACTED]

Attachments: 4th Security Forces Incident Report, dated 29 December 2002

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