

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE AIC	AFSN/SSAN ██████████
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TYPE BCD	PERSONAL APPEARANCE	X	RECORD REVIEW						
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">COUNSEL</td> <td>NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td>YES</td> <td>No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	YES	No		X	ADDRESS AND OR ORGANIZATION OF COUNSEL _____ _____	
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION								
YES	No								
	X								

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

ISSUES A94.53	INDEX NUMBER A68.00	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 DATE 01 Dec 2004	CASE NUMBER FD-2004-00243	
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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.

ENDORSEMENT		DATE: 12/2/2004
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-2004-00243

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant was offered a personal appearance before the Discharge Review Board 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.

The Board finds the applicant submitted no matters in clemency, and the evidence of record does not provide a sufficient basis in clemency for a change of discharge.

Issue. The applicant did not receive an administrative discharge. He received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court Martial conviction. Under the provisions of Title 10, U.S.C., Section 1553, the only basis for change of a Bad Conduct Discharge, is clemency. The applicant submitted no evidence to warrant clemency and none was evident in the record.

CONCLUSIONS: The Discharge Review Board concludes that the applicant's punitive discharge by Special Court Martial was appropriate under the facts and circumstances of this case and there is insufficient basis as an act of clemency for change of discharge.

Attachment:
Examiner's Brief

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

(Examiner's Note: DD Form 214 was not issued at the time of discharge, and some documents are missing from the file. Therefore, date of discharge is arrived at as the date of Special Court Martial Order No.5, and the full 45 days confinement is assumed to have been served beginning immediately following sentencing. The DD Form 214 issued on 16 Aug 04 has some errors and will be corrected upon completion of Board Hearing).

(Former A1C) (HGH SSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a BCD Disch fr Seymour-Johnson AFB, NC on 21 Oct 98 UP SPCMO No.5 (Conviction by Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 16 Aug 69. Enlmt Age: 17 11/12. Disch Age: 35 0/12. Educ: HS DIPL. AFQT: N/A. A-98, E-58, G-74, M-34. PAFSC: 3M071 - Food Services Accountant. DAS: 1 May 91.

b. Prior Sv: (1) AFRes 31 Jul 87 - 15 Nov 87 (3 months 16 days) (Inactive).

(2) Enlisted as AB 16 Nov 87 for 4 yrs. Extended 4 May 88 for 5 months. Svd: 3 yrs 4 months 4 days, all AMS. AMN - 16 May 88. A1C - 16 Mar 89. SrA - 16 May 90. APRs: 8,9. EPRs: 4,5,5.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as SrA 21 Mar 91 for 6 yrs. Svd: 7 Yrs 7 Mo 1 Das, of which AMS is 7 yrs 5 months 17 days (excludes 1 month 15 days lost time).

b. Grade Status: A1C - 21 Oct 98 (SPCMO No.5, 21 Oct 98)
SSgt - 1 Jul 93

c. Time Lost: (Documentation of lost time missing. Therefore, lost time of 45 days starting at completion of Special Court Martial Order No.5, dated 25 Jun 96 is assumed).

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial Order No.5 - 25 Jun 96

CHARGE: Article 112a. Plea: Guilty. Finding: Guilty.

Specification: Did, in the continental United States, on divers occasions, between on or about 29 Dec 95 and on or about 17 Feb

96, wrongfully use marijuana. Plea: Guilty. Finding: Guilty. Sentence adjudged on 23 Apr 96: Reduction to A1C, 45 days confinement, and a Bad Conduct Discharge.

g. Record of SV: 5 Feb 91 - 4 Feb 92 Seymour-Johnson AFB 4 (Annual)
5 Feb 92 - 1 Sep 92 Seymour-Johnson AFB 5 (CRO)
2 Sep 92 - 1 Sep 93 Seymour-Johnson AFB 4 (Annual)
2 Sep 93 - 3 Aug 94 Seymour-Johnson AFB 5 (CRO)
4 Aug 94 - 3 Aug 95 Seymour-Johnson AFB 4 (Annual)

h. Awards & Decs: HSM, AFAM.

i. Stmt of Sv: TMS: (11) Yrs (4) Mos (6) Das
TAMS: (10) Yrs (9) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 4 Jun 04.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. Two Character Statements.
2. Certificate of Achievement.

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