

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

(TRIAL)

TYPE GEN

PERSONAL APPEARANCE

X

RECORD REVIEW

| COUNSEL |    |
|---------|----|
| YES     | No |
|         | X  |

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

**MEMBER SITTING**

**VOTE OF THE BOARD**

|  | HON | GEN | UOTHC | OTHER | DENY |
|--|-----|-----|-------|-------|------|
|  |     |     |       |       | X    |
|  |     |     |       |       | X    |
|  |     |     |       |       | X    |
|  |     |     |       |       | X    |
|  |     |     |       |       | X    |

ISSUES **A93.09**

INDEX NUMBER **A67.10**

**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 DATE

**21 Jul 2005**

CASE NUMBER

**FD-2004-00502**

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.

Names and votes will be made available to the applicant at the applicant's request.

SIGNATURE OF RECORDER

SIGNATURE OF BOARD PRESIDENT

**INDORSEMENT**

DATE: 7/21/2005

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

FD-2004-00502

**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.

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

**ISSUE:** Applicant does not contest his discharge. He states that the military was not right for him at the time. The records indicated the applicant received two Article 15s. One for operating a motor vehicle on base after having a lawful order not to do so. The other for DWI and failing to refrain from consuming alcoholic beverages while under the legal age of 21. In addition, he received three Letters of Counseling and two Letters of Admonishment for being late for duty on four separate occasions and for throwing trash from the second floor balcony. 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)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Seymour Johnson AFB, NC on 28 Apr 04 UP AFI 36-3208, para 5.49 - (Pattern of Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 Oct 82. Enlmt Age: 18 11/12. Disch Age: 21 6/12. Educ: HS DIPL. AFQT: N/A. A-63, E-60, G-42, M-46. PAFSC: 2T131 - Vehicle Operator Apprentice. DAS: 28 Mar 03.

b. Prior Sv: (1) AFRes 30 Sep 02 - 11 Nov 02 (1 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Nov 02 for 6 years. Svd: 1 Yr 5 Mos 17 days, of which AMS is 01 Yrs 04 Mo 28 Das(excludes 18 Days lost time).

b. Grade Status: AB - 05 Feb 04 - (Article 15, 5 Feb 04)  
A1C - 05 Feb 04  
Amn - 14 Oct 03 - (Article 15, 14 Oct 03)  
A1C - 27 Dec 02  
AB - 12 Nov 02

c. Time Lost: 22 Mar 04 thru 9 Apr 04 (18 days).

d. Art 15's: (1) 5 Feb 04 - Seymour Johnson AFB - Article 80. You did, on or about 10 Jan 04, attempt to operate a motor vehicle on base after having a lawful order from Colonel [REDACTED] your superior commissioned officer, then known by you to be your superior commissioned officer, to not operate a motor vehicle on base. Reduction of the grade of AB, forfeiture of \$200.00 pay per month for 2 months and 45 days extra duty. (Appeal/Denied) (No mitigation)

(2) 14 Oct 03 - Seymour Johnson AFB - Article 111. You did, on or about 24 Sep 2003, physically control a vehicle, to wit: a passenger car, while the alcohol concentration in your blood was 0.08 grams of alcohol per 100 milliliters of blood or greater, specifically .107 grams of alcohol per 100 milliliters of blood, as shown by chemical analysis. Article 92. You, who knew of your duties, on or about 24 Sep 03, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages

while under the age of 21 years, as it was your duty to do. Reduction to the grade of Amn, forfeiture of \$150.00 pay per month for 2 months, 20 days extra duty and Reprimand. (No appeal) (No mitigation)

- e. Additional: LOC - 04 Jan 04 - Late for duty.  
 LOC - 14 May 03 - Throwing trash from second floor balcony.  
 LOA - 24 Apr 03 - One hour and 35 mins late for duty.  
 LOA - 17 Apr 03 - One hour and 45 mins late for duty.  
 LOC - 04 Apr 03 - Three hours late for duty.

- f. CM: Summary Court Martial - 1 Apr 04

CHARGE: Article 92. Plea: Guilty. Finding: Guilty.

Specification 1: Having knowledge of lawful order issued by Lt Col [REDACTED] to not have contact with A1C [REDACTED] and A1C [REDACTED] an order which it was his duty to obey, did, within the CONUS, on divers occasions between 27 Feb 04 and on or about 19 Mar 04, fail to obey the same.

Specification 2: Having knowledge of a lawful order issue by Lt Col [REDACTED] to be restricted to base, an order which it was his duty to obey, did, within the CONUS, on divers occasions between on or about 27 Feb 04 and on or about 19 Mar 04, fail to obey the same by wrongfully leaving the base. Sentence adjudged on 1 Apr 04: Twenty five days confinement and forfeiture of 1/3 pay for one month.

- g. Record of SV: None.

- h. Awards & Decs: AFOUA, NDSM, AFTR.

- i. Stmt of Sv: TMS: (01) Yrs (06) Mos (11) Das  
 TAMS: (01) Yrs (04) Mos (28) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 15 Dec 04  
 (Change Discharge to Honorable)

Issue 1: I am requesting an upgrade on my discharge. I have been discharged for eight months and have been on good conduct during this time. As a civilian I have been active in the community and in my church. I strongly feel I deserve this upgrade. I joined the military to serve my country. I found out during the time of my enlistment that the military was not for me at that particular time. I also feel that if I could go back and do it over again I would still be in the USAF with a different and positive outlook on my military career. This upgrade in my discharge will help me in the future in my job applications. Please take in consideration in giving me an Honorable discharge.

FD2004-00502

ATCH  
None.

3MAR05/day

FD 2004-20502



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

MEMORANDUM FOR AB [REDACTED]

APR 19 2004

FROM: 4 LRS/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, Rule 11 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 04 April 2003, you failed to report for duty at the time prescribed. For this misconduct, you received a Record of Individual Counseling. This is documented by an AF Form 174, dated 04 April 2003. (Tab 1a)

b. On 10 April 2003, you failed to report for duty at the time prescribed. For this misconduct, you received a Letter of Admonishment, dated 17 April 2003. (Tab 1b)

c. On 22 April 2003, you failed to report for duty at the time prescribed. For this misconduct, you were received a Letter of Admonishment, dated 24 April 2003. (Tab 1c)

d. On 10 May 2003, you were observed throwing trash from the second floor balcony of the LRS dormitory. For this misconduct, you received a Letter of Counseling, dated 14 May 2003. (Tab 1d)

e. On or about 24 September 2003, you physically controlled a car, while under the influence of alcohol. Further, you were derelict in the performance of your duty by failing to refrain from consuming alcoholic beverages while under the age of 21 years, as it was your duty to do. For these acts of misconduct, you received an Article 15. This is documented by an AF Form 3070, dated 06 October 2003. (Tab 1e)

f. On 06 January 2004, you failed to report for duty at the time prescribed. For this misconduct, you received a Record of Individual Counseling. This is documented by an AF Form 174, dated 04 January 2004. (Tab 1f)

g. On or about 10 January 2004, you failed to obey a lawful order by your superior commissioned officer not to operate a motor vehicle on base, by attempting to operate a vehicle on base. For this misconduct, you received an Article 15. This is documented by an AF Form 3070, dated 23 January 2004. (Tab 1g)

h. Between on or about 27 February 2004 and on or about 19 March 2004, you failed to obey a lawful order by your superior commissioned officer to not have contact with A1C [REDACTED] and A1C [REDACTED] by having contact with A1C [REDACTED] and A1C [REDACTED]. Further, between on or about 27 Feb 2004 and on or about 19 March 2004, you failed to obey a lawful order by your superior commissioned officer to be

restricted to Seymour Johnson AFB by wrongfully leaving Seymour Johnson AFB. For these acts of misconduct, you pled guilty and were convicted by a Summary Court Martial. This is documented by AF Form 1359, dated 01 April 2004. (Tab 1h)

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 CAPT [REDACTED], Area Defense Counsel, at 1185 Cannon Street, Suite 308, on 19 Apr 04, at 1530 hours. The Area Defense Counsel can be reached at ext. 2-5345 or DSN 722-5345. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statement you want the separation authority to consider must reach me by 22 April (allow three 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 medical examination at the 4<sup>th</sup> Medical Group, Seymour Johnson AFB. You must report to Koritz Clinic, 1050 Jabara Ave on 19 Apr 04 at 1330 hours for the examination.

8. You have been scheduled for and already attended a mandatory Transition Assistance Program (TAPs) counseling on 22 Apr 04 at 1300 hours.

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.

[REDACTED]  
[REDACTED], Lt Col, USAF  
Commander, 4 LRS

Attachments:

Supporting Documentation:

- a. AF Form 174, dated 04 April 2003
- b. Letter of Admonishment, dated 17 April 2003
- c. Letter of Admonishment, dated 24 April 2003
- d. Letter of Counseling, dated 14 May 2003
- e. AF Form 3070, dated 06 October 2003
- f. AF Form 174, dated 04 January 2004
- g. AF Form 3070, dated 23 January 2004
- h. AF Form 1359, dated 01 April 2004