

Ousted F.B.I. Clerk To Get Jury Trial In a Morals Case

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WASHINGTON, July 26 — A bachelor clerk for the Federal Bureau of Investigation, who lost his job because he kept a young woman overnight in his apartment, has won the right to a jury trial over whether his behavior was "conduct unbecoming an employe" of the Federal Bureau of Investigation.

Thomas H. Carter, who was dismissed in 1965 by J. Edgar Hoover, director of the F.B.I., after an anonymous tipster reported the two-night visit in his apartment by a young woman, won a 2-to-1 ruling today by the United States Court of Appeals for the District of Columbia.

Mr. Carter, then 25 years old and freshly discharged from an Air Force stint in Japan, protested that nothing had transpired but "necking or spooning." But he admitted that

he and the young woman had slept together in the same bed.

He brought suit, asserting that the F.B.I. could not legally discharge him for engaging in "perfectly normal sexual activities," which, he argued, the Kinsey Report "has calculated about 90 per cent of the male population engages in." Mr. Carter said he wished to resign voluntarily, and thus erase the blot on his reputation.

The F.B.I. resisted, contending that its agents' moral standards must be lofty enough to inspire the trust of "the little old lady from Dubuque." Such trust will not be placed in an agency that permits its employes to "sleep with young girls and carry on," the Government insisted.

A Federal district judge here threw out Mr. Carter's suit, ruling that he had been indiscreet at least, and that since the F.B.I. is not covered by the Civil Service laws, it has the power to discharge employes when their afterhours activities embarrass the bureau.

Reversing that holding, Judge Harold Leventhal ruled today that the F.B.I. had not made it clear that its employes stood to be discharged for conduct such as Mr. Carter's.

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