

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]	<b>GRADE</b> AB	<b>AFSN/SSAN</b> [REDACTED]
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<b>TYPE</b>	<b>PERSONAL APPEARANCE</b>	<b>X RECORD REVIEW</b>
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<b>COUNSEL</b>	<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><b>YES</b></td> <td style="width: 50%;"><b>NO</b></td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>	<b>YES</b>	<b>NO</b>		X		
<b>YES</b>	<b>NO</b>					
	X					

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

<b>ISSUES</b> A95.00	<b>INDEX NUMBER</b> A67.10, A49.00	<b>EXHIBITS SUBMITTED TO THE BOARD</b>		
		1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
<b>HEARING DATE</b> 15 NOV 02	<b>CASE NUMBER</b> FD2002-0284	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	

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 Washington, D.C.

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

<b>SIGNATURE OF RECORDER</b> [REDACTED]	<b>SIGNATURE OF BOARD PRESIDENT</b> [REDACTED]
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<b>INDORSEMENT</b>	<b>DATE: 15 NOV 02</b>
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<b>TO:</b> SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD02-0284

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable and to change the RE Code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

**FINDINGS:** Upgrade of discharge is denied.

The board finds that the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

**ISSUE:** The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received an Article 15 for consuming alcohol under the age of 21. He also received an AETC Form 125A for continuous pattern of misconduct and failure to abide by the rules and regulations set forth by the Air Force. In addition, he received three Letters of Reprimand for failing to abide by the phase program, willful dereliction of duty, and failure to go. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.

**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 AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/12/19 UP AFI 36-3208, para 5.26.3 & 5.49 (Unsatisfactory Performance and Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 81/02/07. Enlmt Age: 19 9/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-55, E-57, G-53, M-36. PAFSC: 4N011 - Medical Service Helper. DAS: 01/07/01.

b. Prior Sv: (1) AFRes 00/11/29 - 01/01/22 (1 month 24 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 01/01/23 for 4 yrs. Svd: 00 Yrs 10 Mo 27 Das, all AMS.

b. Grade Status: AB - 01/10/19 (Article 15, 01/10/19)  
AMN - Unknown.

c. Time Lost: None.

d. Art 15's: (1) 01/10/19, Travis AFB, CA - Article 92. You, who knew of your duties, on or about 11 Aug 01, were derelict in the performance of those duties in that you willfully failed to refrain from consuming or possessing alcohol until over the age of 21 years, as it was your duty to do. Reduction to AB, and 15 days extra duty.  
(No appeal) (No mitigation)

e. Additional: AETC 125A, 29 OCT 01 - Continuous pattern of misconduct and failure to abide by the rules and regulations set forth by the Air Force.

LOR, 21 JUN 01 - Failing to abide by the phase program.  
LOR, 06 AUG 01 - Willful dereliction of duty.  
LOR, 19 NOV 01 - Failure to go.

f. CM: None.

g. Record of SV: None.

(Discharged from Travis AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (01) Yrs (00) Mos (21) Das  
TAMS: (00) Yrs (10) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/02.  
(Change Discharge to Honorable, and Change the RE Code.)

NO ISSUES SUBMITTED.

**ATCH**  
None.

02/07/02/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 60TH AIR MOBILITY WING (AMC)

11 DEC 2001

MEMORANDUM FOR 60 AMW/CC

FROM: 60 AMW/JA  
510 Mulheron Street  
Travis AFB CA 94535-2406

SUBJECT: Legal Review of Administrative Discharge Under AFI 36-3208,  
AB [REDACTED] FR [REDACTED] 60th Medical Support Squadron

1. **Introduction:** This action is legally sufficient. On 4 Dec 01, 60 MDSS/CC initiated discharge action against AB [REDACTED] (Respondent) pursuant to AFI 36-3208, paragraph 5.26.3, Unsatisfactory Performance, Failure to Progress in On-the-Job Training (OJT), and paragraph 5.49, Misconduct, Minor Disciplinary Infractions. The 60 MDSS/CC recommended a general service characterization without probation and rehabilitation (P&R) and 60 MDG/CC concurred. This 20-year-old respondent has over 10 months of active duty service and has been awarded the Air Force Training Ribbon. A detailed summary of his personal data is contained in paragraph 2 of the Commander's Recommendation for Discharge letter, dated 7 Dec 01. After conferring with counsel, Respondent elected not to submit matters for the separation authority's consideration (Tab 3).

2. **Basis for Discharge:**

a. Unsatisfactory Performance, Failure in On-the-Job Training (OJT), Paragraph 5.26.3

On 29 Sep 01, Respondent was disenrolled from Phase II of Course No. J5ABO4NO31-000 at Sheppard AFB, Texas, due to his continuous pattern of misconduct and unwillingness to abide by the rules and regulations set forth by the Air Force, as evidenced by AETC Form 125A.

b. Misconduct, Minor Disciplinary Infractions, Paragraph 5.49

(1) On or about 20 Jun 01, while in Phase I of Course No. J3AQR4N031, Medical Service Apprentice, at Sheppard AFB TX, Respondent was seen at the Base Exchange in civilian clothes, in violation of an order listed in Appendix C of the 882<sup>d</sup> Training Guide dated 15 Mar 01. For this, Respondent received a letter of reprimand (LOR), dated 21 Jun 01, with establishment of an unfavorable information file (UIF) on 26 Jun 01.

(2) On or about 30 Jul 01, Respondent was derelict in the performance of his duties, in that he failed to wear one of his student badges above his name strip, as instructed.

(3) Further, on or about 1 Aug 01, Respondent was given permission to leave the Surgical Nursing Unit to pick up airplane tickets at the base terminal. He was gone for over two hours and did not call his section. Upon returning from the base terminal, Respondent left the

facility for lunch and was gone for over an hour, knowing this was not allowed. For the actions described in paragraphs 2b(2) and 2b(3), Respondent received an LOR, dated 6 Aug 01, which was placed in his existing UIF on 15 Sep 01.

(4) On or about 11 Aug 01, Respondent was derelict in the performance of his duties, in that he willfully failed to refrain from consuming or possessing alcohol while under 21 years of age, in violation of Article 92, UCMJ. For this misconduct, Respondent received an Article 15, dated 19 Oct 01, which was placed in his existing UIF on 29 Oct 01. Punishment consisted of reduction to the grade of airman basic and 15 days of extra duty.

(5) On or about 1 Nov 01, Respondent failed to go to his appointed place of duty at the prescribed time, for which he received an LOR, dated 19 Nov 01.

### 3. Appropriateness of Discharge:

a. Airmen are subject to discharge for unsatisfactory performance based on the documented failure to meet Air Force standards. Airmen should be discharged when their unsatisfactory performance or conduct shows they are not qualified for service in the Air Force. Performance in the Air Force includes, but is not limited to, work done as assigned duties, military on-the-job training, bearing, and behavior. Respondent's disenrollment from his training course mentioned in paragraph 2a demonstrates there is a basis for discharge under paragraph 5.26.3.

b. Airmen occupy a unique position in society, representing the military 24 hours a day. This special status carries with it an obligation to uphold and maintain the dignity and good reputation of the Air Force at all times and in all places. In keeping with this, minor disciplinary infractions in the current enlistment make an airman subject to discharge. Infractions under paragraph 5.49 may involve failure to comply with nonpunitive regulations, or minor offenses under the UCMJ. Respondent's disciplinary infractions, listed in paragraph 2b, support discharge under paragraph 5.49.

c. If you are convinced there is a basis for discharge under paragraph 5.26.3 and paragraph 5.49, you may look at Respondent's entire military record to decide whether it is appropriate to discharge him at this time.

d. Given Respondent's repeated infractions and failure to progress in OJT requirements, there are sufficient grounds for discharge and, in light of his record as a whole, it is appropriate to discharge him at this time.

### 4. Characterization of Service:

a. Pursuant to AFI 36-3208, table 1.3, discharges under paragraph 5.26.3 may be characterized as Honorable or General, and discharges under paragraph 5.49 may be characterized as Honorable, General, or Under Other Than Honorable Conditions (UOTHC). An honorable characterization is appropriate when the quality of a member's service has generally met Air Force standards of acceptable conduct and performance of duty or has been so meritorious that any other characterization would be clearly inappropriate. Respondent's record does not meet this standard. A general discharge, instead, is appropriate when an airman's

service has been honest and faithful, but significant negative aspects of the airman's conduct or performance of duty outweigh any positive aspects of the airman's military record. A UOTHC discharge, on the other hand, is appropriate when the grounds for discharge are based on a member's acts or omissions that significantly depart from conduct expected of airmen.

b. The 60 MDSS/CC recommended a general service characterization. I agree. A general discharge is more appropriate because there are significant negative aspects of Respondent's record that outweigh the positive aspects of his military career. In a span of 5 months, Respondent received three LORs and an Article 15 for repeated misconduct. He was disenrolled from his training course as a result of these. Given the nature of Respondent's unsatisfactory performance and repeated misconduct, and his time in the Air Force, it is unlikely a board of officers would recommend a UOTHC discharge. Accordingly, I concur with both commanders' recommendations for a general discharge.

5. **Probation and Rehabilitation (P&R):** P&R is clearly inappropriate in this case. According to AFI 36-3208, paragraph 5.2, airmen should have an opportunity to overcome their deficiencies before discharge action is initiated. A commander's efforts to rehabilitate an airman may include formal or informal counseling, control roster action, punishment under Article 15, UCMJ, a change in duty assignment, demotion, additional training or duty, retraining, or other administrative action. P&R should be offered, when it is reasonably possible to do so, to those airmen (a) who have demonstrated a potential to serve satisfactorily, (b) who have the capacity to be rehabilitated for continued military service or for completion of the current enlistment, and (c) whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. Respondent has already been given numerous chances to correct his behavior, as reflected in the above-noted disciplinary actions. Despite these corrective measures, however, he failed to change. Therefore, retaining Respondent, even in a probationary status, would most likely not produce the desired results, but be contrary to the maintenance of good order and discipline at Travis AFB.

6. **Options:** As the Special Court-Martial Convening Authority, you approve or disapprove recommendations for discharge processed by notification according to chapter 6, section B, resulting in general discharge under section H (paragraph 5.56 of AFI 36-3208). According to paragraph 6.45, if you direct discharge for more than one reason, the instrument directing discharge must cite the primary reason. In this case, paragraph 5.49, Misconduct, Minor Disciplinary Infractions, should be the primary basis because it better reflects the underlying rationale for the discharge action. Your options are to


- a. direct that this action be withdrawn and retain Respondent,
- b. discharge Respondent with a general discharge, with or without P&R, citing either paragraph 5.26.3 or 5.49 as the primary reason,
- c. forward the case to the 15 AF/CC with a recommendation for an honorable discharge, with or without P&R, citing either paragraph 5.26.3 or 5.49 as the primary reason, or
- d. direct reinitiation of processing, pursuant to AFI 36-3208, chapter 6, section C - Board Hearing or Board Waiver, if you believe a UOTHC is warranted.

7. **Recommendation:** Discharge Respondent with a general discharge without P&R by signing the letter at attachment 1, using paragraph 5.49 as the primary reason for discharge.



Major, USAF  
Deputy Staff Judge Advocate

Attachments:

1. Proposed Letter
2. Case File (AB )

I concur.



Colonel, USAF  
Staff Judge Advocate





DEPARTMENT OF THE AIR FORCE  
60TH MEDICAL SUPPORT SQUADRON (AMC)

4 Dec 01

MEMORANDUM FOR AB [REDACTED] FR [REDACTED], 60 MDSS

FROM: 60 MDSS/CC  
101 Bodin Circle  
Travis AFB CA 94535-1800

SUBJECT: Notification Memorandum

1. I am recommending you be discharged from the United States Air Force pursuant to AFI 36-3208, paragraph 5.26.3, Unsatisfactory Performance, Failure to Progress in On-the-Job Training (OJT), and paragraph 5.49, Misconduct, Minor Disciplinary Infractions. If my recommendation is approved, your service may be characterized as Honorable, General, or Under Other than Honorable Conditions. I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. Unsatisfactory Performance, Failure to Progress in On-the-Job Training (OJT), Paragraph 5.26.3.

On 29 Sep 01, you were disenrolled from Phase II of Course No. J5ABO4NO31-000 at Sheppard AFB, Texas, due to your continuous pattern of misconduct and unwillingness to abide by the rules and regulations set forth by the Air Force. This is evidenced by AETC Form 125A (Atch 1, Tab 1).

b. Misconduct, Minor Disciplinary Infractions, Paragraph 5.49.

(1) On or about 20 Jun 01, while in Phase I of Course No. J3AQR4N031, Medical Service Apprentice, Sheppard AFB, Texas, you were seen at the Base Exchange in civilian clothes, in violation of an order listed in Appendix C of the 882<sup>nd</sup> Training Group, dated 15 Mar 01. For this, you received a letter of reprimand (LOR), dated 21 Jun 01, with establishment of an unfavorable information file (UIF) on 26 Jun 01 (Atch 2, Tab 1).

(2) On or about 30 Jul 01, you were derelict in the performance of your duties, in that you failed to wear one of your student badges above your name strip, as instructed.

(3) Further, on or about 1 Aug 01, you were given permission to leave the Surgical Nursing Unit to pick up airplane tickets at the base terminal. You were gone for over two hours and did not call your section. In addition, upon returning from the base terminal, you left the facility for lunch and were gone for over an hour despite the fact that you knew this was not allowed. For the actions described in paragraphs 2b(2) and 2b(3), you received an LOR, dated 6 Aug 01, which was placed in your existing UIF on 15 Sep 01 (Atch 3, Tab 1).

(4) On or about 11 Aug 01, you were derelict in the performance of your duties in that you willfully failed to refrain from consuming or possessing alcohol while under 21 years of age, in

violation of Article 92, UCMJ. For this misconduct, you received an Article 15, dated 19 Oct 01, which was placed in your existing UIF on 29 Oct 01. Punishment consisted of reduction to the grade of airman basic and 15 days of extra duty (Atch 4, Tab 1).

(5) On or about 1 Nov 01, you failed to go to your appointed place of duty at the prescribed time, for which you received an LOR, dated 19 Nov 01 (Atch 5, Tab 1).

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 are to 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, and any special pay, bonus monies, or education assistance funds may be subject to recoupment.

4. You have the right to consult with an attorney. Military legal counsel has been obtained to assist you. I have made an appointment for you to speak with **Captain [REDACTED]**, Area Defense Counsel, 540 Airlift Drive, Bldg. 381, Suite D-100, Travis AFB, California, 94535-2479, DSN 837-4569; Commercial, (707) 424-4569, on Call for Appointment. You may also consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you wish the separation authority to consider must reach me by (three workdays from service of this letter) 7 Dec 01, no later than 1430 hours, unless you request and receive an extension for good cause. I will send the separation authority any documents you submit.

6. If you fail to consult with counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a separation physical examination on 26 Nov 01.

8. Any personal information you furnish in rebuttal will be covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use in the Orderly Room.

9. Execute the acknowledgment and return it to me immediately.

**[REDACTED]**, Colonel, USAF, MSC  
Commander, 60 MDSS

**Attachments:**

1. AETC Form 125A, 29 Oct 01 w/Atchs
2. LOR, 21 Jun 01, w/1 Atch; AF Form 1058, 26 Jun 01
3. LOR, 6 Aug 01, w/1 Atch; AF Form 1058, 15 Sep 01
4. AF Form 3070, 19 Oct 01, w/3 Atchs
5. LOR, 19 Nov 01