

# 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]																		
<b>TYPE</b>	<b>PERSONAL APPEARANCE</b>		<b>X RECORD REVIEW</b>																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;"><b>COUNSEL</b></td> <td rowspan="3" style="width: 40%;"><b>NAME OF COUNSEL AND OR ORGANIZATION</b></td> <td colspan="2" rowspan="3" style="width: 50%;"><b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b></td> </tr> <tr> <td style="width: 10%;"><b>YES</b></td> <td style="width: 10%;"><b>NO</b></td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>		<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>		<b>YES</b>	<b>NO</b>		X											
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	X																				
<b>MEMBERS SITTING</b>			<b>VOTE OF THE BOARD</b>																		
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<b>ISSUES</b> A94.05		<b>INDEX NUMBER</b> A67.10, A49.00		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: left;"><b>EXHIBITS SUBMITTED TO THE BOARD</b></th> </tr> <tr> <td style="width: 5%; text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </table>		<b>EXHIBITS SUBMITTED TO THE BOARD</b>		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
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<b>HEARING DATE</b> 20 JUN 03		<b>CASE NUMBER</b> FD2002-0195																			
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE																					
<b>REMARKS</b> 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.																					
<b>SIGNATURE OF RECORDER</b> [REDACTED]		<b>SIGNATURE OF BOARD PRESIDENT</b> [REDACTED]																			
<b>INDORSEMENT</b>				<b>DATE: 20 JUN 03</b>																	
<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																			

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable, change the Reason and Authority for discharge, 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 neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

**ISSUE:** Applicant states his discharge was too harsh because he was 2 days late returning from leave. The record indicates the applicant received an Article 15 for being absent without official leave and writing bad checks. In addition, he received four Letters of Reprimand for failure to go, writing bad checks, lying and for being late to work. This is obvious more than just being late returning from leave. 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. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/06/26 UP AFI 36-3208, para 5.49 & 5.26.3 (Misconduct - Minor Disciplinary Infractions & Unsatisfactory Performance). Appeals for Honorable Discharge, to Change the Reason and Authority for Discharge, and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 77/08/29. Enlmt Age: 21 9/12. Disch Age: 23 9/12. Educ: HS DIPL. AFQT: N/A. A-53, E-54, G-52, M-68. PAFSC: 2T331 - Special Purpose Vehicle & Equipment Maintenance Apprentice. DAS: 00/02/14.

b. Prior Sv: (1) AFRes 99/06/23 - 99/07/20 (28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 99/07/21 for 6 yrs. Svd: 01 Yrs 11 Mo 06 Das, of which AMS is 01 yr 11 mo 3 days (excludes 3 days lost time).

b. Grade Status: AB - 01/06/06 (Article 15, 01/06/06/)  
A1C - 99/09/06

c. Time Lost: 01/04/25-01/04/27 (3 days).

d. Art 15's: (1) 01/06/06, Pope AFB, NC - Article 86. You, did, without authority, absent yourself from your unit at which you were required to be, to wit: Building 550, located at Pope AFB, NC, and did remain so absent until on or about 27 Apr 01. Article 134. Further, you did, at or near Spring Lake, NC, on or about 10 Apr 01, make and utter to ----- and ----- Inc., a certain check in words and figures as follows, to wit: check number 517 in the amount of \$370.00, drawn upon a ----- Credit Union account, for the purpose of paying rent, and did thereafter dishonorably fail to maintain sufficient funds in the ----- Credit Union for payment of such check in full upon its presentment for payment. Further, at or near Spring Lake, NC, on or about 31 Mar 01, make and utter to ----- and -----, a certain check, in words and figures as follows, to wit: check number 577 in the amount of \$147.65, drawn upon a ----- Credit Union account, in payment of a debt, and did thereafter dishonorably fail to maintain sufficient funds in the ----- Credit Union for payment of such check in full upon its presentment for payment. Reduction to AB, and 45 days extra duty. (No appeal)

(No mitigation)

- e. Additional: LOR, 30 MAR 01 - Lying.  
LOR, 26 MAR 01 - Failure to go.  
LOR, 15 MAR 01 - Bad checks.  
LOR, 15 JUN 00 - Late to work.
- f. CM: none.
- g. Record of SV: 99/07/21 - 01/03/20 Pope AFB 3 (Initial)  
(Discharged from Pope AFB)
- h. Awards & Decs: AFTR, AFOUA.
- i. Stmt of Sv: TMS: (02) Yrs (00) Mos (04) Das  
TAMS: (01) Yrs (11) Mos (03) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/05/19.  
(Change Discharge to Honorable, Change the Reason and Authority for Discharge, and Change the RE Code.)

Issue 1: While I was serving in the Air Force I was given an General Discharge Under Honorable Conditions for being 2 day late coming back from leave. I was at the time passing kidney stones. I would like my discharge changed so I my (sic) rejoin the military. Thank you.

**ATCH**

- 1. AF Form 100.

02/08/14/ia

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DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 43D AIRLIFT WING (AMC)  
POPE AIR FORCE BASE NORTH CAROLINA

22 Jun 01

## MEMORANDUM FOR 43 AW/CC

FROM: 43 AW/JA  
374 Maynard St., STE A  
Pope AFB NC 28308-2381

SUBJECT: Legal Review: Discharge under Provisions of AFD 36-32 and AFI 36-3208,  
Paragraphs 5.49 and 5.26.3 (AB [REDACTED] 43 TRANS)

1. **BASIS FOR ACTION:** Administrative discharge action was initiated on 20 Jun 01 against AB [REDACTED] under the provisions of AFD 36-32 and AFI 36-3208, chapter 5, paragraphs 5.49, Minor Disciplinary Infractions as the primary reason, and under 5.26.3, Unsatisfactory Performance as the secondary. The squadron commander recommends separation with a general discharge. On 20 Jun 01, AB [REDACTED] waived his right to a hearing before an administrative discharge board (see Atch 3 to Squadron Commander's Recommendation). The most severe type of discharge authorized in this case is an under other than honorable conditions discharge, if the convening authority determines such characterization is warranted and directs initiation of a discharge board.

2. **FACTS: Minor Disciplinary Infractions:** My reasons for recommending discharge action under paragraph 5.49, Minor Disciplinary Infractions are:

a. On or about 26 Apr 01, without authority, AB [REDACTED] was absent from his unit at which he was required to be, to wit: Building 550, located at Pope AFB NC and did remain so absent until on or about 27 Apr 01 as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 6 Jun 01.

b. On or about 10 Apr 01, AB [REDACTED] did, at or near Spring Lake NC, make and utter to Tart Realty and Insurance Inc., a certain check, in words and figures as follows, to wit: check number 517 in the amount of \$370.00, drawn upon a [REDACTED] Credit Union account, for the purpose of paying rent, and did thereafter dishonorably fail to maintain sufficient funds in the [REDACTED] Credit Union for payment of such check in full upon its presentment for payment as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 6 Jun 01.

c. On or about 31 Mar 01, AB [REDACTED] did, at or near Spring Lake NC, make and utter to All American TV and Stereo, a certain check, in words and figures as follows, to wit: check number 577 in the amount of \$147.65, drawn upon a [REDACTED] Credit Union account, in payment of a debt, and did thereafter dishonorably fail to maintain sufficient funds in the [REDACTED]

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Credit Union for payment of such check in full upon its presentment for payment as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 6 Jun 01.

d. On or about 21 Mar 01, investigation disclosed that AB [REDACTED] deliberately lied to a Senior Noncommissioned Officer concerning financial matters as documented by a Letter of Reprimand (LOR), dated 30 Mar 01.

e. On or about 15 Mar 01, investigation disclosed that AB [REDACTED] disregarded orders to report to finance and finalize two allotments. This failed to satisfy financial obligations in a timely manner as documented by a Letter of Reprimand (LOR), dated 26 Mar 01.

f. On or about 15 Mar 01, investigation disclosed that AB [REDACTED] wrote several bad checks and failed to satisfy financial obligations as documented by a Letter of Reprimand (LOR), dated 15 Mar 01.

g. On or about 15 Jun 00 AB [REDACTED] came back to work late after a dental appointment as documented by a Letter of Reprimand (LOR), dated 15 Jun 00.

3. **Unsatisfactory Performance:** My reasons for recommending discharge action under paragraph 5.26.3, Unsatisfactory Performance, specifically, failing to progress in on-the-job training are AB [REDACTED] failures on his end-of-course examinations. He initially failed this exam on or about 13 Dec 00. He received a score of 52% and, failed to achieve the minimum passing score of 65%. After this failure he was briefed on the importance of passing his exam the second time. Nonetheless, on or about 11 Apr 01 he failed this exam a second time by scoring 54%. These two failures are documented by two reports of course examination dated 18 Dec 00 and 16 Apr 01, respectively.

4. **PERSONAL DATA:** AB [REDACTED] is 23 years old and began serving his current enlistment on 21 Jul 99. His duty title is Special Purpose Vehicle Maintenance Apprentice, AFSC 2T331. He is entitled to wear the Air Force Training Ribbon.

5. **DISCUSSION:**

a. **Legal Sufficiency:** This discharge recommendation has been processed in compliance with AFI 36-3208, AFI 40-502, and the record is legally sufficient to sustain a discharge. The circumstances related to minor disciplinary infractions cited by the 43 TRANS/CC as reasons for discharge occurred within AB [REDACTED] current enlistment and may be considered as a basis for discharge by you. At least one failure in on-the-job training for her end-of-course examinations occurred during her enlistment and thus all failures may be considered by you as a basis for discharge.

b. Minor disciplinary infractions and failure in the end-of-course examinations are contrary to the self-discipline required for effective military service. AB [REDACTED] history indicates a pattern of dereliction of duty over a ten month period, as well as failing to obey an order. In addition to his discipline problems over the past year, AB [REDACTED] record reveals a history of failing to

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progress in on the job training. During his current enlistment, not once did AB [REDACTED] fall within standards.

c. In determining the proper characterization of AB [REDACTED] service, the guidelines in AFI 36-3208, paragraphs 1.17 and 1.18 must be applied. While a general discharge is the most serious service characterization that can be given for Unsatisfactory Performance, specifically, failing to progress in on-the-job training, the fact AB [REDACTED] is also being discharged for Minor Disciplinary Infractions allow for a less favorable service characterization. The aforementioned guidelines provide that service characterization in misconduct cases must be based upon the quality of the member's service as reflected in the military record, as evidenced by personal conduct, performance of duty and the reasons for the discharge action. Service characterization is usually based on a pattern of behavior rather than an isolated incident, the standards of acceptable conduct, and performance of duty for an airman.

d. AB [REDACTED] service record reveals multiple minor disciplinary infractions extending over a ten month period. The record shows that AB [REDACTED] had been counseled on at least six prior occasions prior to the April 2001 discovery of his second CDC failure, and still failed to bring up his scores within standards. He had several months to conform his conduct and four months to prepare for the second CDC exam, and yet continued to disregard the counseling. In this case, a general discharge is warranted because the negative aspects of AB [REDACTED] records outweigh the positive aspects of his service. The repeated misconduct during his service has made an honorable discharge inappropriate, yet the misconduct has not been so egregious as to warrant a UOTHC discharge characterization.

e. Furthermore, probation and rehabilitation (P&R) program is not appropriate in this case because AB Richart has shown no rehabilitative potential in terms of his misconduct. Additionally, he had ample opportunity to prepare for his end-of-course exam but failed to do so thus, active duty probationary status would be inconsistent with the maintenance of good order and discipline in the Air Force.

6. OPTIONS: As the separation authority in this case, you may:

- a. reject the squadron commander's recommendation and retain AB [REDACTED] on active duty;
- b. convene a board hearing if you feel an under other than honorable conditions discharge warranted; or
- c. Recommend an honorable discharge with or without P&R and forward the file to 21 AF/CC for action; or
- d. Discharge AB [REDACTED] with a general discharge with or without P&R.

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7. RECOMMENDATION: Concur with the squadron commander's recommendation and sign the letter directing AB [REDACTED] discharge with a general discharge characterization without P&R.

[REDACTED]

Lt Col, USAF  
Staff Judge Advocate

Attachment:  
Case File



FD2002-0195



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 43D AIRLIFT WING (AMC)  
POPE AIR FORCE BASE NORTH CAROLINA

20 JUN 2001

MEMORANDUM FOR AB [REDACTED] 43 TRANS

FROM: 43 TRANS/CC  
1415 Reilly Street  
Pope AFB, NC 28308

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force primarily for Minor Disciplinary Infractions and secondarily for Unsatisfactory Performance, specifically, failing to progress in on-the-job training according to AFD 36-32 and AFI 36-3208, under the provisions of paragraphs 5.49 and 5.26.3, respectively. The most severe type of discharge authorized in this case is an under other than honorable conditions discharge, if the convening authority determines such characterization is warranted and directs initiation of a discharge board. I am recommending that your service be characterized as general. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. **Minor Disciplinary Infractions:** My reasons for recommending discharge action under paragraph 5.49, Minor Disciplinary Infractions are:

a. On or about 26 Apr 01, without authority, you were absent from your unit at which you were required to be, to wit: Building 550, located at Pope AFB NC and did remain so absent until on or about 27 Apr 01 as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 6 Jun 01.

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c. On or about 31 Mar 01, you did, at or near Spring Lake NC, make and utter to All American TV and Stereo, a certain check, in words and figures as follows, to wit: check number 577 in the amount of \$147.65, drawn upon a [REDACTED] Credit Union account, in payment of a debt, and did thereafter dishonorably fail to maintain sufficient funds in the [REDACTED] Credit Union for payment of such check in full upon its presentment for payment as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 6 Jun 01.

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d. On or about 21 Mar 01, investigation disclosed that you deliberately lied to a Senior Noncommissioned Officer concerning financial matters as documented by a Letter of Reprimand (LOR), dated 30 Mar 01.

e. On or about 15 Mar 01, investigation disclosed that you disregarded orders to report to finance and finalize two allotments. This failed to satisfy financial obligations in a timely manner as documented by a Letter of Reprimand (LOR), dated 26 Mar 01.

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g. On or about 15 Jun 00 you came back to work late after a dental appointment as documented by a Letter of Reprimand (LOR), dated 15 Jun 00.

3. **Unsatisfactory Performance:** My reasons for recommending discharge action under paragraph 5.26.3, Unsatisfactory Performance, specifically, failing to progress in on-the-job training are your failures on your end-of-course examinations. You initially failed this exam on or about 13 Dec 00. You received a score of 52% and, failed to achieve the minimum passing score of 65%. After this failure you were briefed on the importance of passing your exam the second time. Nonetheless, on or about 11 Apr 01 you failed this exam a second time by scoring 54%. These two failures are documented by two reports of course examination dated 18 Dec 00 and 16 Apr 01, respectively.

4. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The 43d Airlift Wing Commander, who exercises Special Court Martial (SPCM) jurisdiction or a higher authority, will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

5. You have the right to consult counsel. Military legal counsel has been obtained to assist you. Contact SSgt [REDACTED] (extension 4-2362) at the Area Defense Counsel's office immediately after being served with this notification memorandum. At that time an appointment will be scheduled for you to consult Capt [REDACTED] the Area Defense Counsel. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

6. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me by 25 Jun 01 at 0945 hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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7. If you fail to consult counsel or to submit statements in your own behalf in three days, your failure will constitute a waiver of your right to do so.

8. 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 orderly room.



Commander

Major, USAF

Attachments:

1. AF Form 3070, dated 6 Jun 01
2. Letter of Reprimand, dated 30 Mar 01
3. Letter of Reprimand, dated 26 Mar 01
4. Letter of Reprimand, dated 15 Mar 01
5. Letter of Reprimand, dated 15 Jun 00
6. Report of Course Examination, dated 18 Dec 00
7. Report of Course Examination, dated 16 Apr 01
8. Supporting Documents