

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUL 13 1996

IN THE MATTER OF:

DOCKET NUMBER: 97-03351

COUNSEL: None

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

Her reenlistment eligibility (RE) code (2C) be changed to allow her to reenter active duty.

APPLICANT CONTENDS THAT:

Her ability to serve was impaired due to improper training.

In support of her request, she submitted a letter from Retirements and Separations Section and a copy of the AFDRB Decisional Rationale.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 11 May 1994 for four years. She was subsequently promoted to the grade of airman first class (E-3). There are no Airman Performance Reports (APRs) in her record.

On 26 September 1995, applicant was notified of her squadron commander's intent to impose nonjudicial punishment upon her for the following reasons: Violation of the UCMJ, Article 86: You did, on or about 7 September 1995, without authority, absent yourself from your unit at which you were required to be to wit: 61st Mission Support Squadron, located at Los Angeles AFB, and did remain so absent until on or about 11 September 1995; Violation of the UCMJ, Article 92 for: You, who knew of your duties at Los Angeles AFB, on or about 31 August 1995, were derelict in the performance of those duties in that you negligently failed to have enough funds for expenses, including costs for travel before departing for leave, as it was your duty to do.

On 5 October 1995, after consulting with counsel, applicant waived her right to a trial by court-martial, she requested a personal appearance and submitted a written presentation.

On 6 October 1995, she was found not guilty by her squadron commander of the Article 86 offense; however, the squadron commander found applicant guilty of the Article 92 offense. The

commander imposed the following punishment: forfeiture of \$427.00 per month for two months.

Applicant appealed the punishment and submitted a written presentation. On 20 October 1995, the appellate authority partially granted her appeal by approving only so much of the punishment that provided for forfeiture of \$150.00 per month for two months. The Article 15 was filed in her Unfavorable Information File (UIF).

On 2 November 1995, the applicant received a Letter of Reprimand (LOR) for the following reasons: a) On 3 October 1995, she failed to go at the prescribed time to her place of duty; b) On 3 October 1995, she went, without authority, from her assigned place of duty; c) On 17 October 1995, she reported to her assigned place of duty 10 minutes late; and d) On 1 November 1995 she arrived at work 55 minutes late.

On 2 November 1995, applicant was notified of her squadron section commander's intent to recommend her for a general discharge for minor disciplinary infractions, in accordance with AFI 36-3208, paragraph 5.49. The commander cited 12 different infractions committed by applicant between 18 May 1995 through 1 November 1995 for which she received an Article 15 and LOR with UIF.

The squadron section commander advised applicant of her right to consult legal counsel and submit statements in her own behalf. She was advised that her failure to consult counsel or to submit statements would constitute a waiver of her right to do so.

The squadron section commander indicated in her recommendation for discharge action that she did not recommend probation and rehabilitation (P&R) because despite numerous counselings and disciplinary measures, applicant refused to rehabilitate and become a productive military member. Applicant was given every opportunity to correct her behavior, but was unresponsive.

On 7 November 1995, after consulting with counsel, applicant submitted statements in her own behalf.

A legal review was conducted on 8 November 1995 in which the Chief, Civil Law recommended applicant be discharged with a general discharge, without P&R. The discharge authority approved the general discharge on 11 November 1995.

Applicant was discharge on 13 November 1995, in the grade of airman first class with a general discharge, in accordance with AFI 36-3208, paragraph 5.49 for misconduct. She was issued an RE code of 2B (Involuntarily separated with a general or under-other-than-honorable conditions (UOTHC) discharge). She served a total of one year, six months, and three days.

On 18 July 1996, she appealed to the Air Force Discharge Review Board (AFDRB) for upgrade of discharge, change of the narrative reason and change of RE code. On 14 August 1997, the AFDRB upgraded her discharge to honorable, changed the narrative reason to Secretarial Authority and her RE code to 2C (Involuntarily

separated with an honorable discharge; or entry level separation without characterization of service).

AIR FORCE EVALUATION:

The Special Programs and BCMR Manager, AFPC/DPPAES, reviewed the application and stated that the RE code 2C is correct. The type of discharge drove assignment of the RE code.

A complete copy of the evaluation is attached at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the evaluation was forwarded to the applicant on 27 January 1998 for review and comments within 30 days. The applicant submitted three letters of support from prior co-workers.

Copies of the letters are attached at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was timely filed.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. The Secretary of the Air Force has statutory authority to promulgate rules and regulations governing the administration of the Air Force. In the exercise of that authority, he has determined that members separated from the Air Force would be furnished an RE code predicated upon the quality of their service and circumstances of their separation. At the time an RE code is assigned, it reflects the Air Force position regarding whether or not or under what circumstances the individual should be allowed to reenlist. There has been no showing that the Secretary abused this discretionary authority or that the particular RE code assigned was contrary to the prevailing directive. Therefore, the opinion and recommendation of the Air Force are agreed with and we find no basis for concluding that the applicant's RE code is either in error or unjust.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and

that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 2 June 1998, under the provisions of AFI 36-2603:

Mr. LeRoy T. Baseman, Panel Chair
Mr. Joseph G. Diamond, Member
Ms. Peggy E. Gordon, Member
Ms Kay Byrne, Examiner (without vote)

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 29 Oct 97 with atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPPAES, dated 17 Nov 97.
Exhibit D. Letter, AFBCMR, dated 2 Dec 97.
Exhibit E. Supporting Letters, faxed 13 Apr 98.


LeROY T. BASEMAN
Panel Chair