

| GEN | | PERSONAL APPEARANCE | X RECORD REVIEW | | | | |
|---|----|-------------------------------------|--|--|-------|-------|------|
| COUNSEL | | NAME OF COUNSEL AND OR ORGANIZATION | ADDRESS AND OR ORGANIZATION OF COUNSEL | | | | |
| YES | NO | | | | | | |
| | X | | | | | | |
| MEMBERS SITTING | | | VOICE OF THE BOARD | | | | |
| | | | HON | GEN | UOTHC | OTHER | DENY |
| [REDACTED] | | | X | | | | |
| [REDACTED] | | | X | | | | |
| [REDACTED] | | | X | | | + | |
| [REDACTED] | | | X | | | | |
| [REDACTED] | | | | | | | X |
| ISSUES | | INDEX NUMBER | EXHIBITS SUBMITTED TO THE BOARD | | | | |
| A94.06, A93.10 | | A67.10 | 1 | ORDER APPOINTING THE BOARD | | | |
| | | | 2 | APPLICATION FOR REVIEW OF DISCHARGE | | | |
| | | | 3 | LETTER OF NOTIFICATION | | | |
| HEARING DATE | | CASE NUMBER | 4 | BRIEF OF PERSONNEL FILE | | | |
| 02-08-15 | | FD2002-0116 | | 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 + Remove Misconduct, Minor Disciplinary Infractions under paragraph 5.46 of AFR 39-10 from the reason and authority for the discharge. Case heard at Washington, D.C. Advise applicant of the decision of the Board and the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR. | | | | | | | |
| SIGNATURE OF RECORDER | | | SIGNATURE OF BOARD PRESIDENT | | | | |
| [REDACTED] | | | [REDACTED] | | | | |
| INDORSEMENT | | | DATE: 02-08-15 | | | | |
| TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002 | | | | |

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD2002-0116

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge.

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

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

FINDINGS: The Board grants partial relief. The discharge is upgraded to Honorable. Change of reason and authority for discharge are denied.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an impropriety that would justify change of reason or authority for the discharge. However, based on the record and evidence provided by the applicant, the Board find's the applicant's character of discharge is inequitable.

Issues. Applicant received a general discharge for both minor disciplinary infractions and exceeding weight standards. Applicant's misconduct included two Letters of Reprimand and an Unfavorable Information File (UIF) for failing to attend mandatory fitness training on numerous occasions during the periods 23 August to 13 November 1991 and again from 2 to 30 December 1992, after directed to do so repeatedly by her Squadron Section Commander. She also had an Article 15 for dress and appearance violations, and a vacation of suspended punishment for writing a non-sufficient fund check. The record reflects additional financial irresponsibility, but member was apparently not counseled for those infractions. Other documents in the file indicate duty performance problems, but for which she was also not apparently counseled. The record also reflected member had a diagnosed adjustment disorder and personality disorder. Regarding the weight management failures, member had a Letter of Counseling, four Letters of Reprimand, UIF entries, was placed on the Control Roster, and was administratively demoted due to at least five failures. At the time of the discharge, member had only been on her current base about 6 weeks, and she requested to be discharged based only on her weight management failures and noted she had not had any misconduct for the previous 7 months and had been allowed to PCS. Applicant's issues are essentially the same now. After a thorough and complete consideration of the information submitted by the applicant and contained in the records, the Board concluded there was sufficient mitigation to substantiate upgrade of the discharge. Specifically, the Board found the characterization of service was too harsh. However, they did not condone member's misconduct and did not find sufficient justification to change the reason and authority for 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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge. The applicant's characterization should be changed to Honorable under the provisions of Title 10, USC 1553.

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 94/01/14 UP AFR 39-10, para 5-46 & 5-62 (Misconduct - Minor Disciplinary Infractions & Exceeding Weight Standards). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 72/10/16. Enlmt Age: 17 10/12. Disch Age: 21 2/12. Educ:HS DIPL. AFQT: N/A. A-76, E-81, G-76, M-77. PAFSC: 4F051 - Aeromedical Journeyman. DAS: 93/12/28.

b. Prior Sv: (1) AFRes 90/09/11 - 91/01/30 (4 months 20 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 91/01/31 for 4 yrs. Svd: 02 Yrs 11 Mo 14 Das, all AMS.

b. Grade Status: AMN - 93/02/26 (Article 15, Vacation, 93/06/07)
A1C - 92/11/01
AMN - 91/07/31

c. Time Lost: none.

d. Art 15's: (1) 93/06/07, Vacation, Misawa AB, Japan - Article 134. You, did, on or about 21 May 93, make and utter to the ----- a certain check, in the amount of \$25.95, dated 21 May 93, drawn upon the ----- Bank, made payable to the order of ----- for the purchase of something of value, and did thereafter dishonorably fail to maintain sufficient funds in said bank for payment of said check in full upon its presentment for payment. Reduction to Amn. (No appeal) (No mitigation)

(2) 93/02/26, Misawa AB, Japan - Article 92. You, did, on or about 9 Feb 93, fail to obey a general lawful regulation, to wit: para 2-20a, Air Force Regulation 35-10, dated 1 April 89, by wrongfully going outside without proper headgear. You, did, on or about 9 Feb 93, fail to obey a general lawful regulation, to wit: para 8-1, Air Force Regulation 35-10, dated 1 April 89, by wrongfully wearing an Air Force Uniform without proper grade insignia. Reduction to Amn (suspended until 21 Aug 93), forfeiture of \$195 pay, 14 days restriction and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 21 NOV 91 - Failed to obey lawful order.
 LOR, 10 JAN 93 - Failed to obey lawful order.
 LOC, 25 OCT 91 - Exceeding body fat standards.
 LOR, 09 DEC 91 - Exceeding body fat standards.
 LOR, 18 JUN 92 - Exceeding body fat standards.
 LOR, 24 NOV 93 - Exceeding body fat standards.
 LOR, 16 DEC 93 - Exceeding body fat standards.

f. CM: none.

g. Record of SV: 91/01/31 - 92/09/29 Misawa AB 4 (Initial)
 92/09/30 - 93/06/01 Misawa AB 2 (CRO)REF

(Discharged from Malmstrom AFB)

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

i. Stmt of Sv: TMS: (03) Yrs (04) Mos (04) Das
 TAMS: (02) Yrs (11) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/03/08.
 (Change Discharge to Honorable)

Issue 1: I had some major issues in the beginning of my military career which did cause some major problems with me adjusting to the military (Death of my fiancé & not knowing my father). I did receive psychiatric counseling in regards to these issues. When I was stationed in Misawa the first sergeant did try to discharge me with this discharge which I fought & won. I did feel like I was singled out by the first sergeant i.e.: Article 15 for not having a cover while wearing my parka hood at the same time another airman in our office divulged personal (sic) medical information about another airman to people at the NCO Club & she received an LOC. When I finally got to my next station I had gained weight & was tired of struggling to stay in the military. My experience in Misawa showed me what can happen when 1 person doesn't like you (my first srgt.(sic) had promised me he would see me out of the military within a couple weeks of me arriving on that station). It was a joke in my office that I was the eternal airman & that I was an excellent medic just not a very good airman. I still excel in the medical career field & am presently in school pursuing my degree in Health Care Administration so that when I'm done I can run a nursing home & correct the wrongs I've seen. In Montana I didn't fight the discharge because I was "tired" & did just want out. I thought I was being discharged for my weight but it wasn't & they hadn't sent the information I had used to fight that 39-10. I had lost contact with a number of people that had written letters on my behalf. I request that my discharge be corrected to honorable due to weight management problems, failure to do so could jepordize (sic) my ability to finish my degree.

FD2002-0116

ATCH

1. Letter of Recommendation.
2. Employee Performance Evaluation.

02/06/26/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIR REFUELING WING (AMC)

FD 2002-0116

12 JAN 1994

MEMORANDUM FOR 43 ARW/CC

FROM: 43 ARW/JA
7218 Goddard Drive
Malmstrom AFB, Montana 59402-6860

SUBJECT: Legal Review, Administrative Discharge Action [REDACTED]

1. ACTION: Administrative discharge action was initiated on 5 Jan 94 against [REDACTED] (the Respondent) under the provisions of AFR 39-10, Chapter 5, Sections H and K, paragraphs 5-64 and 5-62, for Minor Disciplinary Infractions and Exceeding Body Fat Standards. Under AFR 39-10, paragraph 6-2b, the Respondent is not entitled to a board hearing. Captain [REDACTED] 43 Med Grp/CCQ, has recommended a General discharge without probation and rehabilitation.

2. PERSONAL DATA:

- a. Date and Term of Current Enlistment: 31 Jan 91; 4 Years
- b. Age: 21
- c. Pay Date: 31 Jan 91
- d. TAFMSD: 31 Jan 91
- e. Overall Ratings on Performance Reports:

30 Sep 92 - 1 Jun 93; 2 31 Jan 91 - 29 Sep 92; 4

3. EVIDENCE FOR THE GOVERNMENT: The following provides the basis for discharge and may be considered on the issue of retention.

a. Basis for paragraph 5-46:

(1) On or about 23 Aug 91 through 13 Nov 91 [REDACTED] failed to obey a lawful order given to her by the commander by failing to report to the gym for mandatory fitness training. For this misconduct she received a Letter of Reprimand (LOR) on 21 Nov 91.

(2) On or about 2 Dec 92 through 30 Dec 92, [REDACTED] again failed to obey a lawful order given to her by the commander by failing to report to the gym for mandatory fitness training. For this misconduct she received a LOR on 10 Jan 93. An Unfavorable Information File (UIF) was established on 16 Jan 93.

(3) On or about 9 Feb 93, [REDACTED] failed to obey a general lawful regulation, AFR 35-10, by going outside without the proper headgear and by wearing an Air Force uniform without the proper grade insignia. For this misconduct she received an Article 15 resulting in reduction in grade from A1C to Amn (suspended), forfeiture of \$195.00 pay, 14 days restriction and 14 days extra duty on 26 Feb 93. The Article 15 was filed in her established UIF.

(4) On or about 21 May 93, AB [REDACTED] wrote a check to the Army and Air Force Exchange Service in the amount of \$25.95 that was returned for nonsufficient funds. For this misconduct her Article 15 suspension of reduction in grade from A1C to Amn was vacated on 25 Jun 93. The vacation action was filed in her UIF.

b. Basis for paragraph 5-62:

(1) On 9 Jul 91, AB [REDACTED] was entered into the Weight Management Program (WMP) when her body fat was measured at 38%, 10% above her maximum allowable body fat (MABF) standard. Her first failure following her entrance into Phase I of the WMP occurred on 23 Oct 91, when she was found to have a body fat measurement (BFM) of 39%, a 6% increase in body fat from her 23 Sep 91 measurement. For this failure she received a Letter of Counseling on 25 Oct 91.

(2) On 6 Dec 91, AB [REDACTED] second failure occurred while in Phase I of the WMP when her monthly BFM was 40%, a 1% body fat increase from her 23 Oct 91 BFM. She failed to lose the required 2% body fat per month IAW AFR 35-11. For this failure she received a Letter of Reprimand (LOR) on 9 Dec 91.

(3) On 16 Jun 92, AB [REDACTED] third failure occurred while in Phase I of the WMP when her monthly BFM was 33%, a 6% body fat increase from her 15 May 92 BFM. She failed to lose the required 2% body fat per month IAW AFR 35-11. For this failure she received a LOR on 18 Jun 92 and an Unfavorable Information File (UIF) was established on 24 Jun 92.

(4) On 10 Nov 93, AB [REDACTED] fourth failure occurred while in the 1-Year Probation Period when her monthly BFM was 29%, a 3% body fat increase from her 22 Feb 93 BFM. For this failure she was reentered into Phase I and received a LOR on 24 Nov 93.

(5) On 13 Dec 93, AB [REDACTED] fifth failure occurred while in Phase I of the WMP when her monthly BFM was 34%, a 5% body fat increase and 9 pounds increase in body weight. She failed to lose the required 1% body fat or 3 pounds body weight IAW AFR 35-11, IMC 93-1. For this failure she received a LOR, placed on a Control Roster on 16 Dec 93 and a demotion action was initiated on 17 Dec 93. She was reduced in grade from Amn to AB on 30 Dec 93. The LOR was filed in her existing UIF.

4. EVIDENCE FOR THE RESPONDENT: The Respondent exercised her right to consult military counsel and her right to submit a statement in her behalf for your consideration (Atch 4 to Tab 3). The Respondent's statement may be summarized as follows:

a. Requests that she be discharged solely on her failure under the WMP.

b. The Respondent requests that her minor disciplinary infractions be looked at closely. States she has not been in trouble since she has been assigned to Malmstrom AFB. In fact, her last act of misconduct occurred over seven (7) months ago.

c. The Respondent states she was not treated fairly at her last base. She also feels she is not being treated fairly here at Malmstrom AFB. She does not understand why she was allowed to PCS if she was such a disciplinary problem. She views the minor disciplinary portion of her AFR 39-10 package as a means of punishing her and preventing her from using her GI bill to continue her education.

d. She agrees she has a problem with her weight but if the entire package is reviewed, there is an explanation. States that her squadron failed to include a response to one of her LORs and her Article 15.

5. OPTIONS:

a. Disapprove the discharge action and direct the Respondent be retained in the United States Air Force.

b. Approve the discharge and direct the Respondent be discharged for Minor Disciplinary Infractions and Exceeding Body Fat Standards under the provisions of AFR 39-10, Chapter 5, Sections H and K, paragraphs 5-46 and 5-62, with an Honorable discharge with or without probation and rehabilitation and forward the case to 15 AF/CC for final decision.

c. Approve the discharge and direct the Respondent be discharged for Minor Disciplinary Infractions and Exceeding Fat Standards under the provisions of AFR 39-10, Chapter 5, Sections H and K, paragraphs 5-46 and 5-62 with a General discharge with or without probation and rehabilitation.

d. Recommend the Respondent be discharged with an Under Other Than Honorable Conditions discharge with or without probation and rehabilitation. If you determine that this is the appropriate disposition of this case, you must return the file for discharge board processing.

6. DISCUSSION:

a. The file is legally sufficient to support Captain [REDACTED] recommendation. The evidence establishes that the Respondent has repeatedly failed to maintain basic Air Force standards in the areas of discipline, dress, financial responsibility and weight.

b. A lack of personal responsibility appears to be at the root of the Respondent's problems. For example, her failure in the WMP is due in large part to her failure to attend required exercise classes. Even when ordered to attend by her commander she continued to display a lackadaisical attitude.

c. AFR 39-10 states that a member's performance throughout their entire career should be used to determine a proper service characterization. To discharge AB [REDACTED] solely for her failure in the WMP would by default reward her with an undeserved Honorable discharge. Most discharges for failure in the WMP receive an Honorable discharge because the member has tried but failed to make Air Force weight standards. In the present case, the Respondent does not appear to have tried. Her failures in the WMP combined with financial irresponsibility and other misconduct justifies her discharge under General conditions.

d. Captain [REDACTED] has recommended against probation and rehabilitation. The evidence clearly shows that the 432d and the 43d Med Grps have given the Respondent more than ample time to improve. Despite both squadrons' efforts, the evidence shows that she is a poor candidate for future productive service.

e. A General discharge characterization is appropriate as there have been significant negative aspects throughout the Respondent's military career. It appears that a General discharge without probation and rehabilitation is in the best interest of the Air Force.

f. The Respondent claims that the unit failed to include one of her responses to an LOR, and her Article 15 action in the discharge package. This claim is incorrect. The response to her Article 15 was included in the package. As for the LOR in question, her previous unit lost the original response she made to her 18 Jun 92 LOR. AB [REDACTED] submitted a second response which was included in her package. Despite the loss of this document, her package remains legally sufficient. There are no errors or discrepancies that would affect the legal sufficiency of this action.

7. RECOMMENDATION: That you approve the discharge as recommended by Captain [REDACTED] under the provisions of AFR 39-10, Chapter 5, Sections H and K, paragraphs 5-46 and 5-62, for Minor Disciplinary Infractions and Exceeding Body Fat Standards with a General discharge without probation and rehabilitation. Recommend you cite paragraph 5-46 as the primary reason for discharge.

[REDACTED]

Captain, USAF
Chief, Civil Law

I concur.

[REDACTED]

Major, USAF
Staff Judge Advocate

Attachment:

Case File [REDACTED]



FD 2002-0116
DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIR REFUELING WING (AMC)

5 Jan 94

MEMORANDUM FOR 43 MED GRP/CCQ
ATTENTION: [REDACTED]

FROM: 43 MED GRP/CCQ
74th Street North
Malmstrom AFB, Montana 59402-6780

SUBJECT: Notification Letter - [REDACTED]

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions and Exceeding Body Fat Standards. The authority for this action is AFR 39-10, paragraphs 5-46 and 5-62. I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. Basis for paragraph 5-46:

(1) On or about 23 Aug 91 through 13 Nov 91, you failed to obey a lawful order given to you by the commander by failing to report to the gym for mandatory fitness training. For this misconduct you received a Letter of Reprimand (LOR) on 21 Nov 91.

(2) On or about 2 Dec 92 through 30 Dec 92, you again failed to obey a lawful order given to you by the commander by failing to report to the gym for mandatory fitness training. For this misconduct you received a LOR on 10 Jan 93. An Unfavorable Information File (UIF) was established on 16 Jan 93.

(3) On or about 9 Feb 93, you failed to obey a general lawful regulation, AFR 35-10, by going outside without the proper headgear and by wrongfully wearing an Air Force uniform without the proper grade insignia. For this misconduct you received an Article 15 resulting in reduction in grade from A1C to Amn (suspended), forfeiture of \$195.00 pay, 14 days restriction and 14 days extra duty on 26 Feb 93. The Article 15 was filed in your established UIF.

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b. Basis for paragraph 5-62:

(1) On 9 Jul 91, you were entered into the Weight Management Program (WMP) when your body fat was measured at 38%, 10% above your maximum allowable body fat (MABF) standard. Your first failure following your entrance into Phase I of the WMP occurred on 23 Oct 91, when you were found to have a body fat measurement (BFM) of 39%, a 6% increase in body fat from your 23 Sep 91 measurement. For this failure you received a Letter of Counseling on 25 Oct 91.

(2) On 6 Dec 91, while in Phase I of the WMP, your monthly BFM was 40%, a 1% body fat increase from your 23 Oct 91 BFM. You failed to lose the required 2% body fat per month IAW AFR 35-11. For this failure you received a Letter of Reprimand (LOR) on 9 Dec 91.

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(4) On 10 Nov 93, while in the 1-Year Probation Period, your monthly BFM was 29%, a 3% body fat increase from your 22 Feb 93 BFM. For this failure you were reentered into Phase I and you received a LOR on 24 Nov 93.

(5) On 13 Dec 93, while in Phase I of the WMP, your monthly BFM was 34%, a 5% body fat increase and 9 pounds increase in body weight. You failed to lose the required 1% body fat or 3 pounds body weight IAW AFR 35-11, IMC 93-1. For this failure you received a LOR, placed on a Control Roster on 16 Dec 93 and a demotion action was initiated on 17 Dec 93. You were demoted from Amn to AB on 30 Dec 93. The LOR was filed in your existing UIF.


3. You have the right to counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel, 6944 Goddard Drive, Bldg 160, Room 16 on 6 Jan 94 at 0900 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 10 Jan 94 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You do not require a medical examination. You have had a medical examination within the past two years.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, Atch 6. A copy of AFR 39-10 is available for your use at the 43d Medical Group Orderly Room.

 Captain, USAF
Commander, Medical Squadron Section

Attachments:
(Listed on Next Page)