

## RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01052

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

Her official military record be corrected to restore her to the grade of sergeant (E-4).

### APPLICANT'S CONTENTIONS

Her struggle with weight management was handled in a humiliating and degrading way. She worked very hard to maintain weight standards after giving birth to two children. Her work as a Maintenance Scheduling Specialist was exemplary and always exceeded standards. She was done an injustice for being 20 pounds over the weight standards set forth by the Air Force.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an honorably discharged Air Force airman first class (E-3).

On 19 Jan 89, the applicant's Squadron Section Commander sent the applicant an official notification of promotion withholding. The letter states the applicant's promotion to E-4, which was to be effective on 22 Jan 88, would be withheld due to her unsatisfactory progress in the Weight Management Program (WMP), Phase I.

On 1 Sep 89, according to Special Order **Work-Pro...**, the applicant was promoted to the grade of E-4 with an effective date of rank of 29 Sep 89.

According to AF Form 393, *Individual Record for Weight Management and Fitness Improvement Training Programs*, Section IV: *Record of Administrative Action*, the applicant's supervisor annotated seven unsatisfactory weight management periods, which began 16 Apr 91 and ended 17 Sep 92. The column *Type of Administration Action Taken* reflects: Demotion.

On 30 Sep 92, according to Special Order **Work-Product**, dated 13 Oct 92, the applicant was demoted to the grade of E-3.

On 4 Nov 92, the applicant's commander sent the applicant a notification letter - board hearing, recommending her for an honorable discharge due to her unsatisfactory performance in the WMP. On the same date, the applicant acknowledged receipt of the notification letter.

On 16 Nov 92, the applicant sent a letter to her commander in response to the discharge recommendation. The applicant offered a conditional waiver of her rights associated with an administrative discharge board hearing. The applicant states this bearing [sic] is contingent on her receiving no less than an honorable discharge if the recommendation is approved. She acknowledged that she has voluntarily signed the letter and her defense counsel acknowledged the applicant signed it after being advised of her rights and privileges.

On 23 Nov 92, the legal office found the commander's recommendation for discharge to be legally sufficient and concurred with the commander's decision.

On 24 Nov 92, the applicant's commander responded to the applicant, stating he accepts the offer of a conditional waiver and directs she be discharged. The characterization of her discharge will be honorable.

On 25 Nov 92, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was discharged from the Air Force with a service characterization as honorable. Block 4a, *Grade, Rate, or Rank* reflects: A1C. Block 4b, *Pay Grade*, reflects: E-3. Block 28, *Narrative Reason for Separation*, reflects: Exceeding Air Force Body Fat Standards.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibit C.

### **AIR FORCE EVALUATION**

AFPC/DPMSP (Enlisted Promotions) recommends denying the application. On 31 Oct 91, the applicant received an unsatisfactory on the WMP and an Unfavorable Information File (UIF) was established. In Accordance With (IAW) Department of the Air Force Regulation (AFR) 39-30, *Administrative Demotion of Airmen*, paragraph 2d-e, failure to attain or maintain weight, an airman may be demoted if, after entry into the WMP, he or she fails to attain or maintain with [sic] as prescribed in AFR 35-11, *The Air Force Weight and Fitness Programs*. On 13 Oct 92, the applicant was demoted to A1C with an effective date of 30 Sep 92. On 23 Nov 92, the legal office concurred with the applicant's commander recommendation to discharge, and the applicant was discharged from the Air Force for unsatisfactory performance under AFR 39-10 paragraph 5-26f, exceeding body fat.

An additional evaluation was conducted by AFPC/DPMSSM (Special Programs), who recommends denying the application. The tracking of the applicant's administrative adverse actions indicates incremental increase in severity of the commander's available options to rehabilitate the applicant, consistent with AFR 35-11. The commander exercised progressively more severe disciplinary action without success to rehabilitate the applicant.

The complete advisory opinions are at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent copies of the advisory opinions to the applicant on 20 Feb 94 for comment (Exhibit D) but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendations of AFPC/DPMSP and DPMSSM and finds a preponderance of the evidence does not substantiate the applicant's contentions. Therefore, the Board recommends against correcting the applicant's records. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and

Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

## RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

## CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-01052 in Executive Session on 9 Apr 24:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 22 Feb 23.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinions, AFPC/DPMSP & AFPC/DPMSSM, dated 13 Feb 24  
and  
20 Feb 24.

Exhibit D: Extract, AFR 39-30 *Administrative Demotion of Airmen*, dated 26 Oct 87.

Exhibit E: Notification of Advisories, SAF/MRBC to Applicant, dated 20 Feb 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

X

Work-Product

Board Operations Manager, AFBCMR