



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

JUL 13 1998

Office of the Assistant Secretary

AFBCMR 96-01597

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the *Air* Force relating to [REDACTED] be corrected to show that he was not reduced to the grade of Airman First Class on 13 October 1995, but on that date, he continued to serve in the grade of Senior Airman with an effective date and date of rank of 15 February 1991 and is entitled to all pay and allowances from 13 October 1995 until the date of his discharge on 19 August 1996.

  
JOE G. LINEBERGER  
Director  
Air Force Review Boards Agency

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 96-01597 <sup>JUL 13 1996</sup>

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His rank of senior airman(E-4), be reinstated.

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APPLICANT CONTENDS THAT:

On 13 October 1995, he received an administrative reduction in rank for his fourth failure in the Weight Management Program (WMP). As indicated in the attached documents, those failures were due to problems beyond his control.

In support of his request, applicant submits a letter, dated 19 March 1996, Subject: Proposed Administrative Discharge Action Against (Applicant), from his Area Defense Counsel; Letters from Medical Corps Captains; and, administrative demotion actions.

Applicant's submission is attached at Exhibit A.

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STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letters prepared by the appropriate offices of the Air Force Office of Primary Responsibility (OPR). Accordingly, there is no need to recite these facts in this Record of Proceedings.

Applicant reenlisted in the Regular Air Force on 19 February 1991 for a period of six (6) years in the grade of Senior Airman (E-4).

Applicant was honorably discharged on 19 August 1996 under the provisions of AFI 36-3212 (Physically Unfit for Continued Military Service) with 10% Severance Pay. He served 8 years, 6 months and 4 days of active military service. His discharge order, AB-1066, dated 15 July 1996, reflected discharge in the grade of airman first class.

Per Special Order AB-1200, dated 20 August 1996, applicant's discharge order was amended to reflect discharge in the grade of Senior Airman. The DD Form 214, Certificate of Release or Discharge From Active Duty reflects the grade of Senior Airman, with an effective date of pay grade of 13 October 1995.

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AIR FORCE EVALUATION:

The NCOIC, Commanders Programs Branch, HQ AFPC/DPSFC2, states that applicant contends his inability to meet body fat standards was a result of a medical condition which was beyond his control. Maintaining Air Force weight standards is an individual responsibility. The Weight Management Program (WMP) is a rehabilitative program designed to encourage safe, effective weight loss/body fat reduction, and closely replicates proven civilian weight loss programs. Individuals who allow themselves to exceed the Maximum Allowable Weight (MAW) standard are subject to administrative actions that may reflect during and after their career. Unit commanders may approve temporary medical deferrals for participants in Phase I of the WMP when recommended by a medical practitioner. Commanders are required to notify individuals who get deferrals that they remain ineligible for many career related events, since the temporary medical deferral is considered Phase I of the WMP.

Applicant was placed into the WMP effective 24 August 1993 and received four unsatisfactory progress evaluations. Regulation provides the option of "administrative demotion" after the third failure in the program and "administrative separation" after the fourth failure. The applicant's commander elected to give him a letter of reprimand after the third failure and after the fourth, administered the demotion to airman first class. The commander stated that he was aware of applicant's medical condition, however, he felt applicant could perform other aerobic activities under the supervision of the gym personnel and re-enrolled the applicant in the FIT class to assist him with weight/body fat reduction. They recommend applicant's request be denied.

A copy of the Air Force evaluation is attached at Exhibit C.

The Medical Consultant to the AFBCMR states that there is testimony offered that the applicant suffered a Line of Duty (LOD) "yes" injury to his right ankle and/or foot on 17 March 1993. On 8 April 1993 applicant had a physical examination and was noted to be five pounds over his Maximum Allowable Weight (MAW) according to the fitness standards set down in AFR 35-11.

As noted in the letter from [REDACTED] a medical provider, weight control is achieved through a balance of calories consumed and calories burned. It requires an excess of about 3600 Kcal to be able to store one pound of fat or conversely it requires about 3600 Kcal of energy burned to consume a pound of stored fat. The

one recourse that the applicant may have had, namely to apply for a permanent change of maximum Body Fat Measurement (BFM), which might have been pursued during the window of opportunity when the applicant was below maximum weight but above maximum BFM, if initiated there is no supportive documentation presented that this process had been considered prior to processing the administrative discharge. Administrative action appears to have been appropriate. They recommend the application be denied.

A copy of the Air Force evaluation is attached at Exhibit D.

The Assistant Chief, Inquiries/AFBCMR Section, Airman Promotion Branch, HQ AFPC/DPPPWB, states that while the applicant was demoted under the provisions of AFI 36-2503, he is not protesting the procedural correctness of the demotion action but rather the basis for it. HQ AFPC/DPPPWB defers to the previous Air Force recommendations of denial of applicant's request. However, should the Board void the grade reduction, the applicant will be entitled to have his former grade of 'seniorairman reinstated with an effective date and date of rank of 15 February 1991.

A copy of the Air Force evaluation is attached at Exhibit E.

A letter from the Chief, General and Administrative Law, HQ AFPC/JA, to SAF/MIBR states that they have learned that applicant was discharged with a medical disability discharge on 19 August 1996. Given this new information, they believe the medical evidence relative to applicant's separation could be relevant in assessing the challenged demotion. They recommend a new medical evaluation.

HQ AFPC/JA letter is attached at Exhibit F.

The Chief, Medical Consultant, AFBCMR, states that notwithstanding the reason for applicant's separation, the fact remains, as outlined by the previous AFBCMR Medical Consultant's evaluation, that applicant had within his ability the means to reach and maintain fitness standards and nonetheless failed to do so. Review of records shows that no time was lost from work because of his alleged injury and no LOD determination was made (as required for any injury that leads to loss of duty time of 24 hours or more or which results in a possible permanent disability). It is the opinion of the AFBCMR Medical Consultant that no change in the records is warranted and the application should be denied.

A copy of the Air Force evaluation is attached at Exhibit G.

A Memorandum for Review Boards Office, from Defense Finance and Accounting Service (DFAS), dated 28 July 1997, states that applicant's military pay account regarding a demotion from senior airman (E-4) to airman first class (E-3), shows he was paid as an E-3 effective 13 October 1995 through his date of separation,

19 August 1996. He has not received any back pay as a result of a determination that his demotion **was** inappropriate. (Exhibit H.)

The Senior Attorney-Advisor, HQ AFPC/JA, states that six (6) days before applicant was discharged, the applicant's commander invalidated the previous demotion and reinstated the applicant to the rank of senior airman. However, it does not appear that the applicant received the entitled back pay resulting from the invalidation of his demotion.

Throughout applicant's participation in the Weight Management Program (WMP), he was on a series of medical profiles due to his foot injury, which limited his ability to perform aerobic or impact type activities. Although the commander was aware of applicant's physical limitations, the applicant received two Letters of Reprimand for unsatisfactory performance and was ultimately demoted to the grade of airman first class on 13 October 1995 for failure to keep fit.

On 1 July 1996, based on the findings of the Informal Physical Evaluation Board (IPEB), the Secretary of the Air Force determined the applicant physically unfit for continued military service and directed he be discharged with severance pay under the provisions of 10 USC 1203. In response, the applicant's commander invalidated the 13 October 1995 demotion action and reinstated the applicant to the grade of senior airman, effective 13 August 1996. The commander cited AFI 36-2503, paragraph 17.4.1, as the basis for the reinstatement of the applicant's rank.

The invalidation of applicant's demotion and reinstatement to the grade of senior airman on 13 August 1996 entitled him to back pay for those 10 months for which he received airman first class pay. The correct date of rank should be the original date he was promoted to senior airman. They recommend the applicant's request be granted with appropriate back pay and allowances.

A copy of the Air Force evaluation is attached at Exhibit I.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 18 August 1997 for review and response within 30 days. As of this date, no response has been received by this office.

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice warranting a correction of applicant's record to reflect reinstatement of his rank to senior airman. After reviewing the evidence of record, it appears that the original reason for applicant's reduction to the grade of airman first class was invalid based upon regulation. We note that applicant received a foot injury in March 1993 and a physical exam revealed that he was above his maximum allowable weight. He was entered into the Weight Management Program (WMP) and subsequently received Letters of Reprimand for unsatisfactory performance and ultimately demoted to the grade of airman first class on 13 October 1995 for failure to keep fit. Based on findings of an Informal Physical Evaluation Board (IPEB), the Secretary of the Air Force directed that applicant be discharged with severance pay under the provisions of Title 10 U.S.C. 1203. The applicant's commander then invalidated the 13 October 1995 demotion action and reinstated the applicant to the grade of senior airman effective 13 August 1996. As stated by HQ AFPC/JA, the invalidation of applicant's demotion and reinstatement to the grade of senior airman on 13 August 1996 entitled the applicant to back pay for the 10 months for which he received airman first class pay. Therefore, we agree with the opinion and recommendation of HQ AFPC/JA that applicant's reinstatement to the grade of senior airman should be corrected to reflect the original date he was promoted to senior airman. In view of the above, we recommend applicant's records be corrected as indicated below.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that he was not reduced to the grade of Airman First Class on 13 October 1995, but on that date, he continued to serve in the grade of Senior Airman with an effective date and date of rank of 15 February 1991 and is entitled to all pay and allowances from 13 October 1995 until the date of his discharge on 19 August 1996.

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The following members of the Board considered this application in Executive Session on 12 May 1998, under the provisions of AFI 36-2603:

Mr. Thomas S. Markiewicz, Panel Chair  
Mr. Richard A. Peterson, Member  
Mr. Loren S. Perlstein, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 30 May 96, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPSFC2, dated 1 Aug 96.
- Exhibit D. Letter, BCMR Medical Consultant, dated 24 Oct 96.
- Exhibit E. Letter, HQ AFPC/DPPPWB, dated 8 Nov 96, w/atc.
- Exhibit F. Letter, HQ AFPC/JA, dated 10 Dec 96.
- Exhibit G. Letter, BCMR Medical Consultant, dated 22 Apr 97.
- Exhibit H. Letter, DFAS-DE/FYCC, dated 28 Jul 97, w/atchs.
- Exhibit I. Letter, HQ AFPC/JA, dated 5 Aug 97.
- Exhibit J. Letter, AFBCMR, dated 18 Aug 97.

  
THOMAS S. MARKIEWICZ

Panel Chair



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC



OFFICE OF THE ASSISTANT SECRETARY

24 October 1996

MEMORANDUM FOR AFBCMR

FROM: Medical Consultant to the Air Force BCMR  
1535 Command Drive, EE-Wing, 3rd Floor  
Andrews AFB MD 20762

SUBJECT: Application for Correction of Military Records [REDACTED]

REQUESTED ACTION: The applicant requests return of his former rank of SRA.

FACTS: The entire medical record is not submitted for review therefore the opinion requested is based upon portions of the medical record and personnel record and correspondence that is submitted with the applicant's package.

There is testimony offered that the applicant suffered a LOD "yes" injury to his right ankle and/or foot on 17 March 1993. On 8 April 1993 the applicant had a physical examination and was noted to be 5 lbs over his Maximum Allowable Weight (MAW) according to the fitness standards set down in AFI 35-11. There is no mention of a physical impairment affecting his fitness at this time other than the overweight condition.

On 12 July 1993 there was an AF Form 422 issued that says "NOT OK FOR WMP, OK FOR FIT (an exercise program) and says further "waiting for thyroid results". There is nothing on this profile to indicate an ankle or foot problem.

The applicant was formally entered into the WMP on 24 August 1996 and showed a weight gain of 9 lbs in the intervening four months since his physical exam while awaiting medical evaluation. His entry weight was 217 lbs. And his Body Fat Measurement (BFM) was 24 percent which was four percent over the maximum allowable for his height and age. There is an AF Form 422 of 17 August 1993 clearing the applicant for the WMP and indicating that because of a foot problem he is excused from step aerobics but cleared for bicycle exercise.

The WMP records indicates that the applicant dropped below his MAW after September 1993 but then made slow and erratic progress toward his BFM maximum finally achieving this on 18 April 1994 at which time he was transferred to stage two for maintenance. It should be noted that during all of this time the applicant was apparently on profile for modified aerobics and in the FIT exercise program.

The applicant remained at his goal only one month and then gained 4 percent by the next month measurement. Thereafter in spite of significant losses of weight the applicant's body fat never again measured within acceptable limits. Between January and March of 1996 the applicant gained a total of 28 lbs and 5 percent body fat. The last recorded weight is 237 lbs or 56 lbs above the achieved low weight of 181 lbs on 20 March 1995. The applicants four failures to progress leading to demotion were spread over several months and each was properly documented and followed by appropriate administrative action and

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**DISCUSSION:** As noted in the letter from Captain Anders, a medical provider, weight control is achieved through a balance of calories consumed and calories burned. It requires an excess of about **3600** Kcal to be able to store one pound of fat or conversely it requires about 3600 Kcal of energy burned to consume a pound of stored fat. A common example of this is that it takes a five mile brisk walk to bum off the calories in one medium sized piece of apple pie. It is certainly easier to reduce or maintain weight and body fat when aerobic exercise is utilized, but it is entirely possible to accomplish either weight/BFM reduction or maintenance through diet alone. In other words don't eat the pie. The one recourse that the applicant may have had, namely to apply for a permanent change of maximum BFM, which might have been pursued during the window of opportunity when the applicant was below maximum weight but above maximum BFM, if initiated there is no supportive documentation presented that this process been considered prior to processing the administrative discharge in accordance with AFI 35-11. The applicant or any of the health care providers caring for him could have applied for a permanent waiver in the applicant's BFM standard. This waiver request, which is authorized to be approved by wing commanders, is initiated by a member, supported by medical opinion indicating that the member is fit at a body fat level above that determined by the standard method of measurement. because of a problem relating to a muscular body build, e.g. powerlifters or genetic tendencies which affect the distribution of fat, e.g. some Native Americans, and therefore the present measurement nomogram is not an accurate estimation of BFM or fitness when using standard (AFI 35-1 1) tape measurement techniques. This request must be validated by a proper military appearance in uniform and most wing commanders require either a personal appearance or a set of photographs of the applicant in uniform. Apparently the medical providers, all of whom know of this waiver authority, believed that a BFM of 20 percent was attainable and reasonable for the applicant.

There are in addition many ways to exercise for a motivated person using only upper body exercise, as demonstrated by many paraplegic athletes. It is not unusual for members on the WMP to be on profiles for injury or disease which modify either their ability to exercise or to diet. The requirements to continue to lose fat are not then waived but the member is encouraged to use the other modality more fully. A waiver for activities limiting the use of the lower extremities does not put the applicant in a status of "over which he had no control" with regard to BFM standards. The amount of weight that the applicant gained in the months of January through March of **1995** represents an excess of **1500** Kcal per day over that amount of food (approx 2200 Kcal) that it takes to maintain a person of his size. There is no evidence or testimony offered that indicates to this consultant that the applicant could not have succeeded in achieving and maintaining the BFM standards as set down in AFI 35-11. Administrative action appears to have been appropriate or if anything generously lenient.

**RECOMMENDATION:** The Medical Consultant for the BCMR recommends that this application be denied.



HENRY F. DAVIS, Colbnel, USAF, MC  
Medical Consultant to the Air Force BCMR



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DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS



8 NOV 1996

MEMORANDUM FOR AFPC/JA  
AFBCMR  
IN TURN

FROM: HQ AFPC/DPPPWB  
550 C Street West, Ste 8  
Randolph AFB TX 78150-4711

SUBJECT: Application for Correction of Military Records ~~\_\_\_\_\_~~

Requested Action. The applicant is requesting to have his administrative demotion be voided and his former grade of senior airman be reinstated.

Reason for Request. Applicant believes his reduction in grade due to his failure to maintain his weight within required Air Force standards was unjust because he had medical problems.

Facts. The applicant was demoted from the grade of senior airman to airman first class under the provisions of AFI 36-2503 for failure to maintain his weight within required Air Force standards.

Discussion. While the applicant was demoted under the provisions of AFI 36-2503 he is not protesting the procedural correctness of the demotion action but rather the basis for it. His primary complaint is that he believes the reduction should not have taken place because of the medical problems he was having during that time frame. It is noted the Office of Primary Responsibility (OPR) for the Weight Management Program and the Medical Consultant to the AFBCMR has reviewed this case and both have recommended denial. We defer to their recommendations. However, should the AFBCMR void the AFI 36-2503 reduction, the applicant will be entitled to have his former grade of senior airman reinstated with an effective date and date of rank of 15 Feb 91.

Recommendation. See discussion paragraph above.



*Donald B. Slate*

DONALD B. SLATE

Ass't Chief, Inquiries/AFBCMR Section  
Airman Promotion Branch

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DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS

1 August 1996

MEMORANDUM FOR SAF/MIBR

FROM: HQ AFPC/DPSFC2  
550 C Street West Ste 37  
Randolph AFB TX 78150-4739

SUBJECT: Application for Correction of Military Records - [REDACTED]

**Requested Action:** Applicant desires being returned to the rank of SrA. The applicant contends his failures within the Weight Management Program (WMP) were due to problems beyond his control.

**Basis for Request:** Applicant states he received an administrative reduction to the rank of A1C due to his fourth failure in the WMP. Applicant contends his inability to meet body fat standards was a result of a medical condition which was beyond his control.

**Discussion:** Maintaining Air Force weight standards is an individual responsibility. Obesity not only detracts from a professional military appearance and the confidence the public has in their national defense, but according to the National Institute of Health (NIH), it is also a dangerous health risk. NIH reports obesity is as lethal as high blood pressure or smoking cigarettes and causes heart attacks, strokes, diabetes, and cancer. Therefore, exceeding Air Force weight standards increases a person's risk of serious health problems, thereby impacting on the individual's and the Air Force's mission readiness.

The WMP is a rehabilitative program designed to encourage safe, effective weight loss/body fat reduction, and closely replicates proven civilian weight loss programs. Individual's who allow themselves to exceed the Maximum Allowable Weight (MAW) standard are subject to administrative actions that may reflect during and after their career. Administrative actions may consist of counseling, reprimands, denial of promotion, and ultimately involuntary separation. These actions support good order and discipline necessary for a strong military force.

Unit commanders may approve temporary medical deferrals for participants in Phase I of the WMP (the active weight/body fat loss phase), when recommended by a medical practitioner. Commanders are required to notify individuals who get deferrals that they remain ineligible for many career related events, since the temporary medical deferral (weight status code 5) is considered Phase I of the WMP. Individuals with the temporary medical deferral are exempt from weight checks, body fat measurements and/or participation in an exercise program for the duration of the deferral, at which time, a new base line is established and the member continues in the program.

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**Facts:** The applicant was placed into the WMP effective 24 Aug 93 and received four unsatisfactory progress evaluations. AFI 40-502, Table 1, provides a guide for administrative actions for personnel on the WMP who receive unsatisfactory progress evaluations. This table provides the option of "administrative demotion" after the third failure in the program and "administrative separation" after the fourth failure. The member's commander elected to give him a letter of reprimand after the third failure and after the fourth failure, administered the demotion to A1C. on 20 Jan 95, prior to the member being demoted the commander stated in his letter to the member that he was aware of the member's medical condition which hampered his participation in some aerobic activities which required prolonged standing. However, the commander felt the member could perform other aerobic activities under the supervision of the gym personnel and reenrolled the member in the FIT class to assist him with weight/body fat reduction.

**Recommendation:** Deny request. The commander was aware of the member's medical condition; however, it was apparent to the commander that the member could still maintain progress within the WMP utilizing proper aerobic activities.



VICTOR V. VILLARREAL, SMSgt, **USAF**  
NCOIC, Commanders Programs Branch

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22 Apr 97  
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MEMORANDUM FOR AFBCMR

FROM: BCMR Medical Consultant  
1535 Command Drive, EE Wing, 3rd Floor  
Andrews AFB MD 20762-7002

SUBJECT: Application for Correction of Military Records [REDACTED]

Applicant's entire case file has been reviewed and is forwarded with the following findings, conclusions and recommendations.

REQUESTED ACTION: Applicant requests return of former rank of Senior Airman (SRA) which was administratively vacated on 13 Oct 95 for failure to reach and maintain body weight and body fat standards. A second review is asked by [REDACTED] Chief, General and Administrative Law at Randolph AFB after learning of applicant's medical separation.

FACTS: An extremely erudite review of this entire case was prepared by [REDACTED] on 24 Oct 96, and reader is referred to this summary for details. Applicant's basic contention is that he was unable to maintain standards because of an injury to his foot that occurred in March 1993 and which prevented him from participating in exercise programs that would have helped him reach these goals. Because of the continuing problem with foot pain, he was found unfit for continued military duty and discharged under provisions of AFI 36-3212 with a 10% disability severance pay on 19 Aug 96 to which applicant agreed as noted on AF Form 1180 dated 18 Jun 96.

DISCUSSION: Notwithstanding the reason for his separation, the fact remains, as outlined by Col. [REDACTED] review, that individual had within his ability the means to reach and maintain fitness standards and nonetheless failed to do so. Review of records shows that no time was lost from work because of his alleged injury and no LOD determination was made (as required for any injury that leads to loss of duty time of 24 hours or more or which results in a possible permanent disability). (Emphasis added) Action and disposition in this case are proper and reflect compliance with Air Force directives which implement the law.

RECOMMENDATION: The BCMR Medical Consultant is of the opinion that no change in the records is warranted and the application should be denied.

11 SIGNED 11

FREDERICK W. HORNICK, Col. USAF, MC, FS  
Chief, Medical Consultant, BCMR  
Medical Advisor SAF Personnel Council

[REDACTED]

9601597



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS



5 August 1997

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/JA (Capt Wright)  
550 C Street West Ste 44  
Randolph AFB TX 78150-4746

SUBJECT: Application for Correction of Military Records - [REDACTED]

**REQUESTED ACTION:** Applicant requests reinstatement to the rank of senior airman. Applicant submitted **this** application request in May 1996, two months prior to **his** medical discharge **from** the United States Air Force. Subsequently, six days before he was discharged, the applicant's commander invalidated the previous demotion and reinstated the applicant to the **rank** of senior **airman**. However, it does not appear that the applicant received the entitled back pay resulting from the invalidation of **his** demotion.

**BASIS FOR REQUEST:** Applicant challenged his demotion to airman first class for failure to keep fit in the Weight Management Program (WMP).<sup>1</sup> The applicant argued that **his** failure to maintain weight and body fat standards **was** the result of a physical cause beyond his control.

**FACTS AND DISCUSSION:** On **17 Mar** 93, applicant's foot **was** severely sprained while playing basketball at **a** weekly unit sports event. **After** suffering the **injury**, a physical exam revealed that the applicant was above **his maximum** allowable weight. On **24 Aug** 93, applicant **was** formerly entered into the WMP. Although he was able to reduce **his** weight, he could not meet the required body fat percentage standard. Throughout **his** participation in the WMP, applicant **was** on a series of medical profiles due to **his** foot injury, which limited **his** ability to perform aerobic or impact type activities. Although the applicant's commander **was** aware of his physical limitations, the applicant received two letters of reprimand for unsatisfactory performance and was ultimately demoted to the grade of airman first class on 13 Oct 95 for failure to keep fit.

On 1 Jul 96, based on the findings of the Informal Physical Evaluation Board, the Secretary of the Air Force determined the applicant physically unfit for continued military service and directed that the applicant be discharged with severance pay under the provisions of

<sup>1</sup> See AFI 36-2503 (Administrative Separation of Airmen), paragraph 3.4 (Failure to Keep Fit), 13 Jul 94.

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10 U.S.C. 1203. In response, the applicant's commander invalidated the 13 Oct 95 demotion action and reinstated the applicant to the grade of senior airman, effective 13 Aug 96. The commander cited AFI 36-2503, paragraph 17.4.1, as the basis for the reinstatement of the applicant's rank.<sup>2</sup> The applicant was discharged from the Air Force on 19 Aug 96.

The invalidation of the applicant's 13 Oct 95 demotion and reinstatement to the grade of senior airman on 13 Aug 96 entitled the applicant to back pay for those 10 months for which he received airman first class pay. In researching this case, we discovered that the applicant has not received any back pay with respect to his reinstated rank.<sup>3</sup> Additionally, the applicant's DD Form 214 contains an error in block 12(h) which lists the effective date of pay grade for senior airman as 13 Oct 95. The correct date should be the original date he was promoted to senior airman, 16 Feb 91.

RECOMMENDATION: In summary, for the reasons outlined above, we recommend that the Board grant the applicant appropriate back pay and allowances. We also recommend that the applicant's DD Form 214, block 12(h), be corrected to read 16 Feb 91.



WILLARD K. LOCKWOOD  
Senior Attorney-Advisor



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<sup>2</sup> AFI 36-2503, paragraph 17.4.1 states, in pertinent part, that "Airmen will not be demoted if they can present convincing medical evidence that they cannot attain or maintain weight and body fat standards because of physical or organic causes beyond their control."

<sup>3</sup> See DFAS-DE/FYCC letter dated 28 Jul 97.

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