

ADMINISTRATIVE DISCHARGE

Administrative Discharge

We have reviewed the attached case file and find it legally sufficient to administratively discharge the Respondent pursuant to Air Force Instruction (AFI) 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, paragraph 2.29.4 (Other serious or recurring misconduct that raises doubt regarding fitness for retention in the Air Force) with an Under Other Than Honorable Conditions (UOTHC) service characterization.

Factual Background

The Respondent is a 31-year-old Reserve officer with a total federal commissioned service date (TFCSD) of 14 May 2004. She received her commission through ROTC. She served on active duty from 2004 until 2007 as an Aircraft Maintenance Officer and continued her service in this capacity as an Air Force Reservist from 2007 until present. She is currently assigned to Base X.

Respondent's misconduct is evidenced by an Article 15 action in 2005 and another Article 15 action in 2009. The first Article 15 action contained two specifications related to an unprofessional relationship with an enlisted member between May and June 2005. The adjudged punishment consisted of a suspended forfeiture of pay of \$1000 per month for two months and a reprimand. This action was placed in her Officer Selection Record (OSR). The second Article 15 action also related to an unprofessional relationship with another enlisted member between May and July 2009 at a deployed location. One specification concerned the unprofessional relationship while the second specification concerned a false statement in August 2009 where Respondent stated to an investigator that her relationship with the enlisted member was strictly professional. The adjudged punishment consisted of a suspended forfeiture of pay of \$2361 per month for two months, restriction to various locations at her deployed base, and a reprimand. This action was also placed in her Officer Selection Record (OSR).

Case Processing

On 24 May 2010, the squadron commander recommended to the group commander that Respondent be separated under AFI 36-3209, paragraph 2.29.4 (Other serious or recurring misconduct that raises doubt regarding fitness for retention in the Air Force) and recommended a UOTHC service characterization. A Notification of Initiation of Separation Action under AFI 36-3209 dated 16 December 2010 was sent to Respondent's home of record by certified mail in accordance with AFI 36-3209, paragraph 4.5.2. The mail receipt shows that Respondent signed for the package on 21 December 2010. However, all of the documents provided as required by AFI 36-3209, paragraph 4.12 (Acknowledgement of Receipt of Memorandum of Notification of Initiation of Separation Action, Request for Administrative Discharge Board Hearing, Waiver of Administrative Discharge Board Hearing, Submission of Statements/Documents, and Tender of Resignation) were returned by Respondent without her acknowledgement or signature.

Given Respondent's failure to respond, a discharge board was convened in accordance with AFI 36-3209, paragraph 4.6.¹ The board convened on 6 April 2011 under Special Order A-20 dated 25 March 2011. The Respondent was not present for the board and was not represented by counsel. The board members consisted of four Colonels, all members of the Air Reserve component which complied with AFI 36-3209, paragraph 4.14.3.2. The legal advisor and recorder were also properly appointed.

The board found, by a preponderance of the evidence that a basis for discharge existed in the specifications of the two Article 15 actions taken against Respondent and recommended that the Respondent be discharged. The board further recommended a UOTHC service characterization.

Case Analysis

AFI 36-3209, paragraph 2.29.4 presents a basis for administrative discharge in this case for recurring misconduct that raises doubt regarding fitness for retention in the Air Force. Respondent's two Article 15 actions both concerned unprofessional relationships. Although occurring four years apart, the actions show a disturbing pattern of behavior that make her unsuited for military service.

It is Department of Defense (DoD) policy to administratively separate commissioned officers who do not "[m]eet rigorous and necessary standards of duty, performance, and discipline." DoDI 1332.30, *Separation of Regular and Reserve Commissioned Officers*, paragraph 4(c)(1). The Article 15 specifications indicate a lack of integrity, maturity, and appreciation for military standards. One Article 15 action was not enough to deter Respondent from committing the same type of misconduct leading to the second Article 15 action. The second Article 15 action was further aggravated by dishonesty, as well as the fact that the misconduct occurred in a deployed setting. The repeated instances misconduct, especially the same type of misconduct, indicates discharge is appropriate.

AFI 36-3209, paragraph A2.2 lists the types of possible service characterizations indicating that "The Honorable characterization is appropriate when the quality of the member's service generally has met USAF standards of acceptable conduct and performance of duty. It may also be appropriate when a member's service is otherwise so meritorious that any other characterization would be inappropriate." An Under Honorable Conditions (General) characterization is appropriate when "a member's service has been honest and faithful, but significant negative aspects of conduct or performance of duty outweigh positive aspects of the member's military record." Lastly, "A member's service may be characterized as UOTHC only if the member is given an opportunity for a hearing by an administrative discharge board or requests discharge in lieu of trial by court martial." "Characterization of service as UOTHC may be appropriate when the reason for separation is based on one or more acts or omissions that constitute a significant departure from the conduct expected." One of the examples of this type of conduct is listed in the AFI is "Disregard by a superior of customary superior-subordinate

¹ AFI 36-3209, paragraph 4.6 indicates that a failure to respond "constitutes a waiver of all rights, including the right to a board hearing, except for officers who must affirmatively waive their right to a board hearing."

relationships” which generally captures Respondent’s misconduct detailed in the two Article 15 actions. Therefore, the board recommendation for discharge with a UOTHC service characterization would appear reasonable in this case.

Errors and Irregularities

The Acknowledgement of Receipt of Memorandum of Notification of Administrative Board Findings signed by Respondent and dated 30 August 2011 indicates the board recommended separation with a General (Under Honorable Conditions) discharge citing AFI 36-3209, paragraph 2.24, Unsatisfactory Participation. Given the board’s actual recommendation for discharge under paragraph 2.29.4 (Other serious or recurring misconduct that raises doubt regarding fitness for retention in the Air Force) with a UOTHC characterization, this memorandum was provided to Respondent in error. A second corrected memorandum dated and sent to Respondent on 6 October 2011 indicated the first memorandum was in error. The corrected memorandum accurately identified the reason for separation under AFI 36-3209, paragraph 2.29.4, Misconduct or Moral or Professional Dereliction, Other serious or recurring misconduct. It further correctly identified the characterization of the discharge as being Under Other Than Honorable conditions. Verification of Respondent’s address was accomplished through the United States Postal Service and confirmed on 31 October 2011. The certified mail tracker indicated the mail was unclaimed as of 4 November 2011. To date, no response has been received from Respondent. Therefore, in accordance with AFI 36-3209, paragraph 4.6, Respondent’s failure to respond within 15 days constitutes a waiver of rights allowing for discharge processing to continue. This error does not affect the legal sufficiency of the action.

Conclusion

There are no significant errors or irregularities that prejudice the Respondent’s substantive rights. The case file is legally sufficient to support the board’s recommendation for discharge pursuant to AFI 36-3209, paragraph 2.29.4 (Other serious or recurring misconduct that raises doubt regarding fitness for retention in the Air Force) as well as the board’s recommendation of a UOTHC service characterization.