

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03156

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

His general discharge be upgraded to honorable.

APPLICANT'S CONTENTIONS

He was diagnosed with Generalized Epilepsy due to factors directly related to his military service. He would like to seek Veterans Administration healthcare to treat his anxiety and epilepsy that initially occurred during his service. He never had seizures or head trauma prior to service. Since exiting military service, he had three more seizures and has been seeing a neurologist at least once a year to make sure he is okay for daily life. He had to focus on paying attention to his body and essentially learned to tell when a seizure was imminent. The fear and anxiety that comes from this is significant. If he has a certain number of seizures in a certain time frame, it could have significant ramifications on his life. For example, he could lose his driving privileges. He has learned to adjust his lifestyle to mitigate risks of more seizures. He is asking for the upgrade so he can get medical care.

When he was initially given a general discharge, that was the standard for military members who were discharged during basic training or technical school. He believes the policy recently changed to where honorable discharges should be applied to military members who served at any given point. He had given up this battle many years ago and was recently encouraged to try and seek help.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman basic (E-1).

On 14 Mar 06, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Air Force.

On 14 May 06, according to *Wilford Hall Medical Center Emergency Department Physician Record*, provided by the applicant, he was treated for a seizure and diagnosed with epilepsy.

On 18 Jul 06, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, Chapter 5, paragraph 5.14. *Erroneous Enlistment*. The specific reasons for the action were:

- The *Chronological Record of Medical Care*, dated 13 Jun 06, stated [the applicant] was diagnosed with Generalized Epilepsy. This condition existed prior to service and has not been permanently aggravated by service. Had the Air Force known of [the applicant's] condition, and that it would prevent him from performing military duties, [the applicant] would not have been allowed entry into the military.

On 27 Jul 06, the Staff Judge Advocate found the discharge action legally sufficient.

On 16 Aug 06, the discharge authority directed the applicant be discharged under the provisions of AFI 36-3208, Chapter 5, paragraph 5.14. *Erroneous Enlistment*, with an Entry Level Separation (ELS).

On 17 Aug 06, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant received an ELS, with Character of Service: Uncharacterized, Narrative Reason for Separation: Erroneous Enlistment, and was credited with five months and four days active service.

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

APPLICABLE AUTHORITY

In accordance with AFI 36-3208, Chapter 1 – *General Procedures*, dated 9 Jul 04:

1.19. Separation without Service Characterization:

1.19.1. *Entry Level Separation*. Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

1.19.1.1. A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or

1.19.1.2. The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

AIR FORCE EVALUATION

AFPC/DP2SSR recommends denying the application. Based on review of the applicant's request, there is no error or injustice with the discharge process.

Airmen are in entry level status during the first 180 days of continuous active military service. The Department of Defense determined if a member served less than 180 days continuous active service, it would be unfair to the member and the service to characterize their limited service.

The complete advisory opinion is at Exhibit C.

BCMR Medical Advisor recommends denying the application. After a review of the available records, the submitted evidence was insufficient to demonstrate the existence of an applied error or calculated injustice. The applicant's characterization of service was correctly categorized in accordance with regulatory guidance.

The applicant did not receive a general discharge service characterization, but rather received an uncharacterized separation.

The etiologic factor of the occurrence of such a generalized and witnessed seizure will be addressed. This case involved a witnessed and clearly described tonic-clonic type seizure in the setting of a normal MRI of the brain, normal blood parameters, but abnormal electroencephalogram, showing epileptiform electric spikes. This setting, despite having no

other seizure prior to enlistment, clearly adheres to what the Epilepsy Foundation describes as common in having normal brain MRI and blood tests results, when family history is negative, which was reported in this case. Therefore, as known through medical science and research, the genetic component of such a general seizure in this case depicted the predisposition for seizure occurrence existed prior to enlistment and was not permanently aggravated by military service.

Although the applicant is requesting a change in his character of service, it is assumed a change in his narrative reasoning as listed on his DD Form 214 would also be anticipated. Although close, the applicant's total service time was under 180 days and therefore, in accordance with AFI 36-3208, Chapter 1, paragraph 1.19., subparagraph 1.19.1., the type of separation is correctly listed as ELS. An ELS, otherwise known as an "uncharacterized discharge" is given to individuals who separate prior to completing 180 days of military service, or when discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad, but simply denotes the service member's short time in uniform. This brief time constraint reflects an inadequate period to judge an individual's work characteristics appropriately and fairly because in the first few months of service, a new enlistee's duties revolve around training; both basic training and technical school, prior to performing their specialized work. Therefore, an "uncharacterized" character of service is associated with an ELS.

On 16 Aug 06¹, the applicant's commander issued a Notification Memorandum to the applicant, advising him of the recommendation for discharge, under provisions of AFI 36-3208, Chapter 5, Section C, *Defective Enlistments*, paragraph 5.1.4, under basis for discharge for *Erroneous Enlistment*. Had the Air Force known of his condition (predisposed and genetically based) and that it would prevent him from performing military duties, he would not have been allowed entry into the military. Commonly, individuals with medical conditions manifesting so early on in military service are often discharged due to Failed Medical Procurement Standards or as an Erroneous Medical Entry.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinions to the applicant on 14 May 24 for comment (Exhibit E) but has received no response.

FINDINGS AND CONCLUSION

1. The application was 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 rationales and recommendations of AFPC/DP2SSR and the BCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was diagnosed with Generalized Epilepsy, a disqualifying medical condition which, due to its genetic nature, was determined to exist prior to service, justifying his ELS from the Air Force for Erroneous Enlistment. The characterization of the applicant's service was in accordance with AFI 36-3208. Therefore, the Board recommends against correcting the applicant's records.

¹ The discharge authority approved the applicant's administrative discharge on 16 Aug 06. The applicant was notified of the commander's recommendation on 18 Jul 06.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-03156 in Executive Session on 17 Jul 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 20 Sep 23.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DP2SSR, undated.
Exhibit D: Advisory Opinion, BCMR Medical Advisor, dated 9 May 24.
Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 14 May 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

Board Operations Manager, AFBCMR