

## **RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-01700

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### **APPLICANT'S REQUEST**

Her Entry Level Separation (ELS) be amended to reflect an honorable discharge.

### **APPLICANT'S CONTENTIONS**

She was informed upon her separation from the Air National Guard that her discharge would be classified as honorable. The applicant was sworn in on 11 Sep 08 and drilled once a month up until she was full time active duty from 3 Feb 09 through 16 Jun 09. She was then returned to her home base where she continued to train for an additional 14 days. The applicant had a medical injury (ankle sprain) during active duty training and, simultaneously, her family care plan failed, and she was physically and mentally unable to complete her training. The applicant was given a deadline to complete training and find another family care plan, which she was unable to do at that time, and it resulted in her separation.

Further, she was not provided the proper medical treatment needed which resulted in mental anxiety over the years and continued pain from her ankle injury. The applicant tried to receive assistance from the Department of Veterans Affairs which she was denied, and she has not been able to obtain a copy of her medical records. Due to the time frame, she is not sure if they are accessible anymore. The applicant believes if she had not endured these circumstances and was properly treated, she would have successfully performed her military duties and excelled in her career. The applicant is requesting the proper classification due to her, and which she was informed she was eligible to receive. The applicant's current classification has hindered her from receiving the treatment and resources she needed to help her successfully heal physically and mentally.

The applicant would also like to note she was not aware of this process until recently, which she would have pursued years ago. She has again requested copies of her medical records, which she previously requested and never received. The applicant has been denied any service disability associated with her injury caused at training. The applicant feels her unit failed her by not providing the treatment/resources she needed, or the time to heal and continue her service with the Air National Guard (ANG), and it has been very disappointing and discouraging.

The applicant's complete submission is at Exhibit A.

### **STATEMENT OF FACTS**

The applicant is a former [State] ANG airman first class (E-3).

On 11 Sep 08, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant enlisted in the [State] ANG.

On 9 Jun 09, according to the applicant's commander's memorandum, Subject: Recall of [applicant], the applicant was recalled from Basic Military Training (BMT) due to circumstances with the applicant's mother and child.

On 16 Jun 09, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant received an ELS, with a narrative reason for separation of "Termination of Initial Active Duty Training," and was credited with 4 months and 14 days active service.

On 31 Aug 09, according to a Base Education and Training Manager Memorandum for Record (MFR), the applicant entered BMT on 3 Feb 09. She fractured her ankle on 22 Apr 09, was placed on medical hold, and returned home for 30 days convalescent leave. At that same time, the applicant's mother, who was the care provider for the applicant's son, became ill. After her return to BMT, the applicant's mother's health worsened, and the applicant was recalled from BMT. The applicant no longer had a family care plan as her husband was incarcerated.

On 2 Sep 09, according to an MFR from the applicant's commander, the applicant and her commander discussed her options upon return from BMT. Due to the lack of a family care plan, the applicant felt she could not return to BMT. After their discussion, it was decided discharge was in the applicant's and unit's best interest.

On 9 Sep 09, the applicant's commander recommended the applicant be discharged from the [State] Air National Guard, under the provisions of AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, Chapter 3, paragraph 3.16.4. The specific reason for the action was failure to make satisfactory progress in a required training program.

On 5 Dec 09, the Staff Judge Advocate found the discharge action legally sufficient.

On 25 Jan 10, the discharge authority directed the applicant be separated from the [State] Air National Guard, with an ELS.

On 28 Jan 10, according to NGB Form 22, *Report of Separation and Record of Service*, the applicant received an ELS from the [State] Air National Guard. The Authority and Reason is "AFI 36-3209, Paragraph 3.16, Entry Level Performance Conduct; SPD: JGA" and she was credited with 1 year, 4 months, and 18 days of total service for pay.

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

## **APPLICABLE AUTHORITY/GUIDANCE**

AFI 36-3209, Chapter 3 – *Administrative Separation or Discharge of ANG or USAFR Enlisted Members*:

3.16. *Entry Level Performance and Conduct.* Separate a member while in entry level status (defined in Attachment 1) when it is determined that the member is unqualified for further military service by reason of unsatisfactory performance or conduct (or both), as evidenced by inability, lack of reasonable effort, failure to adapt to the military environment, or minor disciplinary infractions. Eligibility for discharge under this section does not preclude separation or discharge for another reason when the separation or discharge is authorized and warranted by the circumstances of the case. When separation or discharge of a member in entry level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both), the member normally should be separated under this section. A member may be separated under this section only when the separation or discharge processing starts while the member is in entry level status.

Members enlisted in the DEP may be involuntarily separated under this provision if they become disqualified for enlistment in the Regular Air Force for any reason or refuse or fail to enlist in the Regular Air Force or enter active duty at the time and place designated. The character of separation or discharge will be entry level separation or discharge. The notification procedures of Chapter 4, Section 4B shall be used. The unit commander will prepare a letter to the discharge authority to include the information in Attachment 6. Do not initiate separation or discharge processing until the member receives formal counseling concerning deficiencies. Counseling requirements are important with respect to this reason for separation or discharge. Because military service is a calling different from any civilian occupation, do not separate a member when this is the sole reason, unless there have been efforts at rehabilitation. Unsatisfactory entry level performance or conduct may be shown in a number of ways including, but not limited to:

3.16.4. Failure to make satisfactory progress in a required training program.

*Attachment 1 – Glossary of References, Abbreviation, Acronyms, and Terms:*

*Entry-Level Status* - The first 180 days of continuous active military service. For members of a Reserve component who have not completed 180 days of continuous active military service and who are not on active duty, entry-level status begins upon enlistment in a Reserve component (including a period of assignment to a delayed entry program). Entry-level status ends 180 days after beginning an initial period of entry-level active duty training. Thus, a member may be in entry-level status for more than 180 days after enlistment. For purposes of characterization of service or description of separation, the member's status is determined by the date of notification as to the initiation of separation proceedings.

## **AIR FORCE EVALUATION**

ARPC/DPTT recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

The applicant's military personnel record has been reviewed by Headquarters, Air Reserve Personnel Center's Air National Guard Separations Section. The determination to separate the member with an ELS was made by the applicant's wing through the [State] Joint Force Headquarters (JFHQ) Adjutant General's (TAG) office. The JFHQ published the order in accordance with AFI 36-3209, Chapter 3, Section 3D, paragraph 3.16.4, "Failure to make satisfactory progress in a required training program." The applicant was unable to complete BMT.

ARPC performed the transaction separating the applicant based on the order furnished by her unit. The authority to discharge with the characterization of ELS was appropriate per the JFHQ TAG. The MFR, dated 31 Aug 09<sup>1</sup>, includes a signed statement by the applicant's commander documenting a conversation held with the applicant on 16 Jun 09, regarding her options, and stating it was in the best interests of the applicant and the unit for the applicant to be discharged with an ELS.

The complete advisory opinion is at Exhibit C.

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

The Board sent a copy of the advisory opinion to the applicant on 2 Dec 24 for comment (Exhibit D) but has received no response.

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<sup>1</sup> The MFR dated 31 Aug 09 was from the Base Education and Training Manager. The subsequent MFR from the applicant's commander was dated 2 Sep 09.

## **FINDINGS AND CONCLUSION**

1. The application was not timely filed. The Board 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 (DAFI) 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.
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 recommendation of ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant received an ELS for failure to complete required training in accordance with AFI 36-3209. She was notified of her separation from service within the first 180 days of continuous active military service, while she was in entry level status. While the applicant contends she did not receive proper medical treatment for her ankle injury, which resulted in post-service mental anxiety, she was returned to duty and BMT following convalescent leave for her ankle injury. Finally, the applicant's recall from BMT, her failure to complete training, and her subsequent ELS, were due to her lack of a family care plan for her dependent child. Despite her contentions, the applicant provided no evidence of a disqualifying medical and/or mental health condition. Therefore, the Board recommends against correcting the applicant's records.
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 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, paragraph 2.1, considered Docket Number BC-2024-01700 in Executive Session on 11 Feb 25:

, 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/atch, dated 7 May 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 19 Aug 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Dec 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

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Board Operations Manager, AFBCMR