



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-00501

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His Air Force debt be waived.

APPLICANT'S CONTENTIONS

He feels he was wrongly discharged and unfairly treated while in the Air Force. He was assaulted while in the Air Force but was discharged with serious injuries. The debt is leaving him with a financial hardship.

In support of his request, the applicant provides medical documentation, debt letters and Department of Veterans Affairs (DVA) memos.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman (E-2).

On 17 Aug 99, DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, indicates the applicant enlisted in the Air Force Reserve for eight years under the Delayed Entry/Enlistment Program (DEP). He was discharged from the DEP and enlisted in the Regular Air Force 8 Dec 99 for a period of six years.

On 9 Oct 01, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*. The specific reasons for the action were Discreditable Involvement with Military or Civilian Authorities and Failure to Support Dependents.

On 12 Oct 01, the Staff Judge Advocate found the discharge action legally sufficient.

On 18 Oct 01, the discharge authority directed the applicant be discharged for A Pattern of Misconduct – Discreditable Involvement with Military or Civilian Authorities as the primary reason and Failure to Support Dependents, as a secondary reason, with a general (under honorable conditions) service characterization. Probation and rehabilitation was considered, but not offered.

On 30 Oct 01, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Pattern of Misconduct" and he was credited with 1 year, 10 months, and 23 days of total active service.

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On 21 Aug 20, an e-mail submitted by the applicant indicates the Air Force Remissions office denied the applicant's request for remission of the debt stating the six-year statute of limitations had expired.

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

AIR FORCE EVALUATION

DFAS-Indianapolis recommends denying the application. The applicant separated on 30 Oct 01 with an out of service debt. The total amount included three different debts: bonus recoupment, advanced payment, and Basic Allowance for Housing (BAH) overpayment. The bonus recoupment is required for the unearned portion of the enlistment bonus based on "for cause" separations. The advance payment was not fully collected prior to separation. The BAH debt was an overpayment to the applicant prior to separation. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

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 26 Jul 21 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all clemency requests are technically untimely. However, it would be illogical to deny a clemency application as untimely, since the Board typically looks for over 15 years of good conduct post-service. Therefore, the Board declines to assert the three-year limitation period established by 10 U.S.C. § 1552(b).
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 DFAS-Indianapolis and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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 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. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-00501 in Executive Session on 11 May 22:

 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 13 Nov 19 and 23 Oct 20.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, DFAS-Indianapolis w/atchs, dated 5 Aug 20.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Jul 21.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

3/14/2023

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Board Operations Manager, AFBCMR
Signed by: USAF