



CUI//SP-MIL/SP-PRVCY
UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2021-03194

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His Entry Level Separation (ELS) discharge with an uncharacterized service characterization be changed to an honorable medical discharge.

APPLICANT'S CONTENTIONS

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, should be updated to reflect his service connected disability as reason for separation. Also, he should be discharged under honorable conditions. He "applied and was awarded medical discharge after the fact and that has never been adjusted on my DD214 to reflect." When applying for benefits (certificate of eligibility) or job offers, this has had a negative impact.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 6 Oct 97, 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 18 Mar 98 for a period of six years.

On 24 Apr 98, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, specifically, Paragraph 5.14 under Basis for Erroneous Enlistment. The specific reason for the action was a medical narrative summary on 15 Apr 98, that found he did not meet minimum medical standards to enlist. He should not have been allowed to join the Air Force because of mechanical low back pain.

On 27 Apr 98, Area Defense Counsel (ADC) memorandum to the applicant's commander, indicates the ADC "specifically advised him concerning the meaning and effect of a separation under the provisions of AFI 36-3208, paragraph 5.14 from the United States Air Force as well as the effects of an entry-level separation." Further, the applicant indicated he understood his rights, would not be submitting statements on his behalf, did not desire retention in the Air Force and did not desire a personal hearing with the Separation Authority.

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On 29 Apr 98 the discharge authority directed the applicant be discharged for Erroneous Enlistment, with an ELS and service characterization described as uncharacterized.

On 30 Apr 98, the applicant received an ELS separation with an “Uncharacterized” characterization of service. His narrative reason for separation is “Failed Medical/Physical Procurement Standards.” He was credited with 1 month and 13 days of total active service.

On 1 Dec 20, A Department of Veterans Affairs (VA) Summary of Benefits letter, dated 8 Sep 21, provided by the applicant, indicates the applicant was awarded compensation for service-connected disabilities at 20 percent.

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

APPLICABLE AUTHORITY

AFI 36-3208, *Administrative Separation of Airmen.*

Paragraph 5.14. Basis for Discharge for Erroneous Enlistment. Errors in the enlistment process occur when the Air Force does not have the true facts or does not take the right action. An airman is subject to discharge from an erroneous enlistment, reenlistment, or extension of enlistment if:
5.14.1. It would not have occurred had the relevant facts been known by the Air Force and the eligibility criteria of AFIs 36-2002 (formerly AFR 33-3) and 36-2606 (formerly AFR 35- 16, volume 1), had been followed;
5.14.2. It was not the result of fraudulent conduct on the part of the member; and 5.14.3. The defect is unchanged in any material respect

DAFI 36- 3211, *Military Separations.*

A6.5. Entry-Level Separation. This type of separation is given only when the person is in 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. This is a discharge that does not attempt to characterize the type of service as either good or bad.

AIR FORCE EVALUATION

AFPC/DP2STM recommends denying the application. Based on review of the applicant’s request and the master of personnel record, there is no error or injustice with the discharge processing. The commander and base discharge authority received documentation from medical authorities that indicate the applicant had a condition that Existed Prior to Entry (EPTE), which should have disqualified him from enlisting in the military. Furthermore, airmen are given entry level separation with uncharacterized service when the discharge is initiated within 180 days of total active service. The Department of Defense determined that it was unfair to both the member and the service to characterize such a short period of active service. Any consideration regarding medical discharge would need review by separate medical authorities.

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 30 Dec 22 for comment (Exhibit D) but has received no response.

The applicant’s complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not 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 rationale and recommendation of AFPC/DP2STM 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)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. 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 the Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-03194 in Executive Session on 25 Jan 23 and 1 Feb 23:


-  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 8 Sep 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2STM, dated 29 Mar 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 30 Dec 22.

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.

12/5/2023


Board Operations Manager, AFBCMR
Signed by: 