



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-2021-03428

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be corrected to change his reenlistment (RE) code from "2Q" which denotes "Personnel medically retired or discharged" to a "1" series RE code to allow him to reenlist in the Air Force.

APPLICANT'S CONTENTIONS

He was separated from the Air Force in 2014 after the Medical Evaluation Board (MEB) found his asthma not fit for service. At the time he was ready to finish his enlistment and did not want to challenge the MEB decision. However, he does not have asthma, nor requires the use of an inhaler. He is in good health and fit for duty both physically and mentally in accordance with Air Force standards. He wants to reenlist in the Air Force.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a disability retired Air Force staff sergeant (E-5).

On 12 Jan 08, 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 Jul 08 for a period of four years.

On 10 Feb 12, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for the purpose of continued active duty for asthma.

On 2 Apr 12, AF Form 356, *Findings and Recommended Disposition of USAF IPEB*, indicates the IPEB recommended the applicant be returned to duty, finding the medical condition does not prevent him from reasonably performing the duties of his office, grade, rank, or rating.

On 4 Apr 12, AF Form 1180, *Action on PEB Findings and Recommended Disposition*, indicates the applicant agreed with the findings and recommendation of the IPEB and waived his right to a formal PEB (FPEB).

On 4 Apr 12, A memorandum from Secretary of the Air Force Personnel Council (SAFPC), directed the applicant be returned to duty.

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Controlled by: SAF/MRB
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POC: SAF.MRBC.Workflow@us.af.mil

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On 16 Apr 14, AF IMT 618 indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for the purpose of separation or retirement for asthma.

On 23 Jun 14, AF Form 356 indicates the IPEB recommended permanent retirement, finding his medical condition is not compatible with the long-term rigors of military service and recommended permanent retirement with a disability rating of 50 percent in accordance with Department of Defense guidance for applying the Veterans Administration Schedule for Rating Disabilities guidelines.

On 24 Jun 14, AF Form 1180 indicates the applicant agreed with the findings and recommendation of the IPEB and waived his right to a FPEB. He also did not request a one-time reconsideration of the disability ratings.

On 25 Jun 14, A memorandum from SAFPC directed the applicant be permanently retired under the provisions of 10 USC 1201.

On 1 Jul 14, Special Order Work-Product indicates the applicant would be permanently disability retired in the grade of staff sergeant with a compensable percentage for physical disability of 50 percent effective 29 Oct 14.

On 28 Oct 14, DD Form 214 indicates the applicant was retired from the Air Force with a narrative reason for separation "Disability, Permanent" and a corresponding separation code of SEJ and reentry code 2Q. He was credited with 6 years, 3 months, and 21 days of active service.

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

AIR FORCE EVALUATION

AFPC/DP2SSM recommends denying changing the applicant's RE code "2Q." The applicant was placed in permanently disability retired status on 29 Oct 14 after serving 6 years, 3 months and 21 days of service with an honorable character of service. The applicant received an RE code of "2Q" based on his disability retirement. Additionally, the applicant is specifically asking for a "1" series RE code. However, all RE codes in the "1" series state "Do not separate Airmen with this RE code," except for RE code "1J." The RE code 1J--(Eligible to reenlist but elects separation. All Airmen selected under the Selective Reenlistment Program and elect separation are given RE code 1J) would not be appropriate as the applicant was not qualified for reenlistment but was permanently disability retired. There is no evidence of an error or injustice in reference to the applicant's RE code based on the documentation provided by the applicant and analysis of the facts.

The complete advisory opinion is at Exhibit C.

ADDITIONAL AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the application. Early in the applicant's military career, the sensitivity of his airway became apparent when significant wheezing in his lungs were present with cold-like symptoms while he was in Basic Military Training. Despite having a few time intervals of no physical complaints by the applicant, the record review revealed far more continuous time intervals of him reporting symptoms of wheezing, shortness of breath, and cough. The medical advisor believes that the return to duty decisions by the PEB and AFPC were significantly influenced by the commander's highly emphasized push for such a decision. However, that decision only held for approximately one year. The applicant's declining

respiratory parameters coupled with worsening and continued symptoms would appropriately mean a repeat processing through the disability evaluation system, which, in this case, resulted in permanent retirement. In accessing if the applicant is eligible for reenlistment, one must consider all aspects of the military environment and also determine if the condition itself still exist. In deciding if the condition still exist, the advisor points out that despite the applicant stating, “*I do not have asthma...*” his submitted 2021 Pulmonary Function Test does reveal a significant decrease in his FEV1 baseline (although considered normal) and a borderline percent decrease (borderline positive) in post-bronchodilator testing; all of which is indicative of asthma. Based upon the severity of his condition while in the military and the borderline positive diagnostic finding seven years post discharge coupled with aggravating factors of extreme weather and Kevlar, the Medical Advisor recommends a denial of his request to change the current RE code on his DD-Form 214. From a medical standpoint and based significantly on his current spirometry testing, the risk remains high of a complete return of adverse respiratory symptoms if the applicant is placed back in a military environment.

The complete advisory opinion is at Exhibit D.

APPLICANT’S REVIEW OF AIR FORCE EVALUATIONS

The Board sent a copy of the advisory opinions to the applicant on 14 Jun 22 for comment (Exhibit E), but has received no response.

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 recommendations of AFPC/DP2SSM and the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Finally, 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-2021-03428 in Executive Session on 24 Aug 22:

<i>Work-Product</i>	Panel Chair
	Panel Member

Work-Product

, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, not dated.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFPC/DP2SSM, dated 2 Mar 22.

Exhibit D: Advisory Opinion, AFBCMR Medical Advisor, dated 27 May 22.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Jun 22.

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.

5/15/2023

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF