



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-2022-00040

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His general (under honorable conditions) discharge be changed to reflect a medical separation.

APPLICANT'S CONTENTIONS

His primary care manager (PCM) reviewed his medical records and offered him a medical discharge for his sleeping disorder, chronic bronchitis, knees and hips issues. His doctor wanted him to follow a work/sleep schedule, while he went through two to three months of additional sleep studies. However, he was pushed through the discharge process within two weeks, after he informed his leadership. Because of this he was unable to finish the medical review.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 14 Apr 10, the applicant received an Article 15 for failing to go at the time prescribed to his appointed place of duty on five separate occasions. As a result, he was ordered 30 days extra duty, forfeiture of \$500 pay, suspended through 13 Oct 10, after which time it would be remitted without further action, unless sooner vacated. He was also demoted to the grade of airman with a new date of rank of 14 Apr 10.

On 27 May 10, the applicant received a vacation of suspended nonjudicial punishment for failing to go at the time prescribed to his appointed place of duty on three occasions. As a result, he was ordered forfeiture of \$500 pay.

On 7 Jul 10, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant received general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct (Minor Infractions)." He was credited with 1 year, 8 months, and 17 days of total active service.

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

AIR FORCE EVALUATION

AFBCMR Docket Number BC-2022-00040
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Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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The AFBCMR Medical Advisor recommends denying the application. After a review of the available records both submitted and those in electronic format, the Medical Advisor opines that the submitted evidence is insufficient to demonstrate the existence of an error or injustice. The applicant had an acute episode of bronchitis that was treated and resolved. His knee pain was treated with physical therapy and was relieved. His sleep disorder of obstructive sleep apnea (OSA) was ruled out by a sleep study. There is no evidence the applicant was offered a medical discharge nor a work/sleep schedule. Based on the submitted documentation, it appeared the administrative discharge process processing as well as the narrative reasoning for separation were appropriate and accomplished in accordance with Air Force policy. Therefore, in the absence of evidence to the contrary, the Medical Advisor finds no compelling basis to recommend granting the relief sought

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 5 Aug 22 for comment (Exhibit D), and the applicant replied on 24 Aug 22 (Exhibit E). In his response, the applicant contends he was severely struggling with his sleep disorder during the time of his disciplinary infractions and was advised to seek medical attention. He was diagnosed with a sleep disorder and the doctor wanted to monitor his sleeping for a period of two months. Once he spoke with his first sergeant, he was notified of his discharge and would not be able to continue the sleep disorder treatment. Following this, he informed others that he was suicidal but was ignored. He was too scared and felt bullied into not reporting this issue to his doctor.

The applicant provided an additional rebuttal on 13 Sep 22 (Exhibit F). In his response to his bronchitis diagnosis, the applicant contends he had experienced bronchitis a few times prior to service. After boot camp he avoided being outside during cold weather as it could cause bronchitis. He did not mention this issue to others because he was already fearful of not completing basic training due to his knee issues. His drill sergeant adjusted his physical training test time so that he could pass and move forward to the next phase. After graduating basic training, he avoided exercising in cold weather environments.

In response to his knee pain diagnosis, he contends the physical therapy treatments did not work and caused flare-ups. As he progressed through Tech School, he did not have to complete physical training which made it easier for him to get by with his knee issues without complaint.

In response to his sleep issues, the applicant contends he underwent a sleep study at a civilian facility. As a result, he completed two months of sleep studies using a sleep monitoring watch. His doctor then diagnosed him with delayed sleep phase syndrome, long sleep type. His doctor ordered him a strict sleep schedule and additional months of sleep monitoring with a watch. Once he reported these findings to his first sergeant, he was informed of his discharge and assigned a new unit. He was forced to end his treatment and could no longer continue his civilian sleep monitoring. He was never spoken to about seeking a Medical Evaluation Board. If someone had advised him of seeking a medical counsel, he may have not been punished for his condition.

The applicant's complete responses are at Exhibit E and Exhibit F.

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 the AFBCMR Medical Advisor 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-2022-00040 in Executive Session on 21 Sep 22:

Work-Product [Redacted] Panel Chair
[Redacted], Panel Member
Work-Product [Redacted] Panel Member

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

- Exhibit A: Application, DD Form 149, dated 21 Dec 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 4 Aug 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 5 Aug 22.
- Exhibit E: Applicant's Response, dated 24 Aug 22.
- Exhibit F: Applicant's Response, dated 13 Sep 22.

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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.

2/14/2023

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Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2022-00040

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