



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-2022-00583

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

1. She receive a DD Form 214, *Certificate of Release or Discharge from Active Duty*, to correctly document her separation.
2. She receive a disability discharge.
3. Her under other than honorable conditions (UOTHC) discharge received from active-duty service from 1 Oct 01 thru 30 Apr 02 be upgraded to honorable

APPLICANT'S CONTENTIONS

While serving on active duty (AD) training at *Work-Product* in 2001, she was treated for symptoms related to an undiagnosed traumatic brain injury (TBI) and other mental health (MH) issues. She was not properly discharged, and her records were not properly maintained. She has suffered for the past 20 years because she was not afforded due process as a cadet injured during AD because she was not properly diagnosed, given access to proper treatment, nor proper military documentation/discharge.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force Reserve Officer Training Cadet (AFROTC).

On 5 Jul 01, according to Special Order *Work-Product*, provided by the applicant, she was ordered to *Work-Product* for AFROTC Field Training (FT).

On 9 Aug 01, a Certificate of Training, provided by the applicant, indicates she successfully completed the five-week AFROTC FT Course at *Work-Product*.

On 13 Mar 23, the Board sent a request to the applicant to provide additional supporting documentation pertaining to her military service (Exhibit H); however, she did not respond.

APPLICABLE AUTHORITY/GUIDANCE

Title 10, United States Code, Section 1168: Discharge or release from active duty: limitation; DoDI 1336.01, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*; AFI 36-3202, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*; DD

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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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Form 214 *Total Force Personnel Services Delivery Guide*. The DD Form 214 is prepared in accordance with the aforementioned publications and is used to record qualifying active-duty service.

AFROTC Instruction 36-2011 “Cadet Operations “Volume 3, Paragraph 3.5. Cadets are students who have intent to commission and are enrolled in the AFROTC program. Membership does not confer active-duty military status upon cadets. While contract cadets are enlisted into the Obligated Reserve Section (ORS) of the Individual Ready Reserves (IRR), they are in civilian status and are not subject to the provisions of the Uniform Code of Military Justice (UCMJ). Status as cadets and reservists can make cadets eligible for certain benefits, such as limited use of morale, welfare, and recreation (MWR) activities, reimbursement for travel to and from some AFROTC training events, and government-funded medical care for injuries related to AFROTC training. Cadets are ineligible for military legal services to include support in a Commander’s Retention Review (CRR). Cadets are listed as 'Active' status in WING.

AIR FORCE EVALUATION

The Staff Physician Adjudicator recommends denial. In the absence of medical documentation coupled with noted inconsistencies and vagueness in her witness statements there is insufficient evidence to support the applicant’s contentions. The burden of proof is placed on the applicant to submit accurate, complete, and compelling evidence to support her request. The evidence she did submit were [sic] insufficient in proving traumatic physical and or MH conditions that either existed or were permanently aggravated above the natural progression as to support any favorable change in her personnel records. The applicant was not very specific in her request to this Board with regards to any actual MH or physical health conditions other than her statement of an “undiagnosed TBI.” Although she noted such issues and quoted a TBI, none of which coincided with her submitted witness statements from family members (both of which were authored 21 years earlier in 2001) nor any mention of the same from her provider’s letter dated in early 2022. The applicant may choose to submit new evidence of outpatient treatment records and emergency room visits from all service time as well as within one year post field training. In such cases a line of duty determination for the health or injury condition would have been accomplished with a description of the inciting event.

The complete advisory opinion is at Exhibit B.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the AFRBA Medical Advisor’s advisory opinion to the applicant on 29 Sep 22 for comment (Exhibit C), and the applicant replied on 20 Oct 22. In the response, the applicant seeks relief based on conditions that apply to her in the Kurta and Wilkie memorandums. Initially, she did not expound on her conditions, including trauma from her daughter’s abduction or her TBI event/symptoms because writing and reading about it was very unsettling. Also, since submitting her application, she was told by the Department of Veterans Affairs (DVA) that she received an UO THC service characterization for active duty 1 Oct 01 – 30 Apr 02. She was not aware of this service and would like a DD Form 214 capturing this time as well.

The complete advisory opinion is at Exhibit D.

ADDITIONAL AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds insufficient evidence has been presented to support her mental health condition. The Psychological Advisor acknowledges the applicant stated there is no

documentation of her injury, but the burden of proof is still placed on the applicant to submit and maintain the necessary documents to support her contention and request. She submitted a letter from her current provider reporting she had experienced some significant stressors during her AFROTC FT and made no mention of any TBI. Her provider's report, however, was made over 20 years after her training/injury/stressors and is purely speculative. Her provider did not evaluate her at the time of her injury or stressors to be able to attest or witness her functioning at the time. Statements from her mother and husband did not clarify her symptoms and no medical records were submitted to corroborate any of their reports despite reporting she had had been ill and had received treatment for her "symptoms" for the last 20 years. There was no evidence she sustained a TBI and no evidence she had any mental health issues during training. There was no evidence her TBI, or mental health condition had elevated to potentially unfitting that would meet criteria to be referred to the Disability Evaluation System (DES) for a medical discharge as she desired. Furthermore, since the applicant was an AFROTC cadet, she is not eligible for DES processing in accordance with DoDI 1332.18, Disability Evaluation System (DES), Appendix 1 to Enclosure 3. Thus, her request for a medical discharge could not be supported. The Psychological Advisor also opines liberal consideration is not applicable to the applicant's request because there are no records she entered the service nor was discharged from the service. Liberal consideration applies to discharge upgrades.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the AFRBA Psychological Advisor's advisory opinion to the applicant on 11 Nov 22 for comment (Exhibit F), and the applicant replied on 8 Dec 22 and 12 Dec 22. In the response, the applicant requests her UOTHC discharge received from active-duty service from 1 Oct 01 thru 30 Apr 02 be upgraded to Honorable because it was likely due to separation for the good of the service by reason of a willful and persistent unauthorized absence after her disenrollment from AFROTC. She was not aware she was called to active duty because of her homelessness. Further, she contends her mental health conditions and experiences with intimate partner violence/child abduction resulted in a period of homelessness which led to her disenrollment from AFROTC. During this time, she was not correctly or justly afforded medical care nor other covered benefits for her reported experiences and symptoms.

The applicant's responses are at Exhibit G.

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/or recommendations of the AFBCMR Medical Advisor and the AFBCMR Psychological 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)*. 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-2022-00583 in Executive Session on 30 Nov 22 and 7 Aug 23:

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, w/atchs, dated 11 Feb 22.
- Exhibit B: Advisory Opinion, AFBCMR Medical Advisor, dated 7 Sep 22.
- Exhibit C: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Sep 22.
- Exhibit D: Applicant's Response, dated 20 Oct 22.
- Exhibit E: Advisory Opinion, AFBCMR Psychological Advisor, dated 17 Oct 22
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 11 Nov 22.
- Exhibit G: Applicant's Response, dated 8 Dec 22 and 12 Dec 22.
- Exhibit H: Notification regarding applicant's military records dated 14 Mar 23.

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.

9/19/2023

Work-Product [Redacted]

Board Operations Manager, AFBCMR
Signed by: USAF