

Work-Product

CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

Work-Product

DOCKET NUMBER: BC-2022-01376

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her separation code and narrative reason for separation be changed to reflect MDH, *Dependency or Hardship*, instead of MDF, *Pregnancy or Childbirth*.

APPLICANT'S CONTENTIONS

She was not allowed to remain in the Air Force due to lack of support for her child. She had no one to sign partial custody of her child. Therefore, she was not allowed to remain in the Air Force and the separation code and narrative reason for separation should be changed to reflect a hardship.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 24 Feb 03, Special Order **Work-Product**, was published and indicated the applicant was to be separated with reentry code 4A, *Separated for hardship or dependency reasons*. (¹See note 1).

On 5 Mar 03, according to AF Form 973, *Request and Authorization for Change of Administrative Orders*, Special Order **Work-Product**, item 22, *Remarks*, was amended to change the applicant's reentry code from 4A to ²3A.

On 3 Mar 03, according to DD Form 214, the applicant was released from active duty and transferred to the Air Force Reserve. Her separation code and corresponding narrative reason for separation is MDF, *Pregnancy or Childbirth* and her reentry code is 3A. She was credited with 1 year, 2 months, and 15 days of active service.

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

¹ Note 1 states: "This code does not apply to Airmen separated for the sole reason of pregnancy."

² 3A: First Term Airmen who separates before completing 36 months (60 months for a 6-year enlistee) on current enlistment and who has no known disqualifying factors or ineligibility conditions except grade, skill level and insufficient Total Active Federal Military Service. All other separation actions remained firm.

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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

APPLICABLE AUTHORITY/GUIDANCE

Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, dated 10 Mar 00, Chapter 3, *Voluntary Separation prior to Expiration of Term of Service*, paragraph 3.17. *Pregnancy or Childbirth*. Women may find pregnancy and the expectation of motherhood incompatible with continued military service. If so, they may ask for separation.

Section 3C, *Dependency or Hardship*. Airmen may request discharge when genuine dependency or undue hardship exists. Military Personnel Flight personnel counsel airmen about the conditions for, and evidence needed to support separation for hardship or dependency. Written statements of the facts of the case support the application for discharge.

Chapter 5, *Reasons for Involuntary Separation*, paragraph 5.9. *Parenthood*. This policy applies to all members with dependents. Airmen may be discharged under this provision if, because of parental responsibilities, they fail to meet their military obligations in accordance with AFI 36-2908, *Dependents Care Responsibility*.

AIR FORCE EVALUATION

AFPC/DP2SSR recommends denying the application. Based on a review of the Master Personnel records and the applicant's request, there is no error or injustice with the discharge process. The applicant was discharged under the provisions of AFI 36-3208, for Pregnancy/Childbirth. Applicants who request separation for pregnancy under this authority only have to submit AF Form 422, *Physical Profile Serial Report*, confirming the pregnancy and must be signed by a designating profiling officer. If they have already given birth, they must submit the child's birth certificate. The request is sent to the applicant's immediate commander for recommendation and is then forwarded to the base separations authority for final decision. If approved, a separation date is established and the discharge processing for the applicant can begin. This is the most logical option due to the expedient nature of pregnancy/childbirth separations.

Conversely, applicants requesting separation based on Dependency or Hardship must follow the guidelines set forth in AFI 36-3208, paragraph 3.20. Airmen may request discharge when genuine dependency or undue hardship exists. The basis for discharge may exist when: (1) The dependency or hardship is not temporary; (2) Conditions have arisen or have been aggravated to an excessive degree since the airman entered active duty; (3) The airman has made every reasonable effort to remedy the situation; (4) Separation will eliminate or materially alleviate the conditions; or (5) There are no means of alleviation readily available other than the separation.

Undue hardship or dependency does not necessarily exist because: (1) Of altered present or expected income or; (2) The family is separated or must suffer the inconvenience usually incident to military service. Applicants submitting Dependency or Hardship separation requests under this authority must submit a thorough explanation as to the circumstances causing the hardship along with extensive supporting documentation. In most cases, Red Cross verification will also be necessary to accompany the application or the base separations authority may ask the Red Cross to obtain additional verification of documentation.

A military member's inability to have an adequate family care plan in place for their child's care in the event of a deployment, natural disaster or other qualifying events that would necessitate the military member be separated from the child for any length of time does not constitute a hardship under this guidance.

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 10 Jun 22, for comment (Exhibit D) 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 applicant claims she was not allowed to remain in the Air Force due to a lack of support for her child; therefore, her discharge should be classified as a hardship. However, the evidence indicates the applicant was voluntarily separated for pregnancy/childbirth and has provided no evidence she requested or met the requirements for a hardship discharge or that she was involuntarily separated under the Parenthood provision. Therefore, the Board concurs with the rationale and recommendation of AFPC/DP2SSR 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 Department of the Air Force Instruction (DAFI) 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2022-01376 in Executive Session on 16 Feb 23:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 13 May 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 9 Jun 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 Jun 22.

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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.

4/11/2023

X *Work-Product*

Board Operations Manager, AFBCMR

Signed by *Work-Product*

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