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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01779

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her "Uncharacterized" Entry Level Separation (ELS) be upgraded to honorable with a medical separation.

APPLICANT'S CONTENTIONS

She was discharged due to a medical condition and wants the change made so she can get education benefits. She is service connected at 60 percent through the Department of Veterans Affairs (DVA) which shows her discharge type as honorable.

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 Jul 04, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.14 for an erroneous enlistment. The specific reason was due to the medical narrative summary, dated 1 Jul 04, which found the applicant did not meet the medical standards to enlist. The applicant's SF 600, *Chronological Record of Medical Care*, indicates her lumbar spundylotic changes were determined to have existed prior to service (EPTS) and were a disqualifying physical condition that did not meet Air Force standards.

On 6 Jul 04, the Chief of Adverse Actions found the discharge action legally sufficient.

On 7 Jul 04, the discharge authority directed the applicant be separated with an ELS for an erroneous enlistment, with an uncharacterized service characterization.

On 9 Jul 04, the applicant received an uncharacterized ELS. Her narrative reason for separation is "Failed Medical/Physical Procurement Standards" and she was credited with 1 month and 22 days of total active service.

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Controlled by: SAF/MRB
CUI Categories: Work-Product
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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

APPLICABLE AUTHORITY/GUIDANCE

AFI 36-3208, *Administrative Separation of Airmen*, dated 28 May 03, describes the authorized service characterizations that were applicable at the time of the applicant's separation.

Honorable. The quality of the airman's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate.

Under Honorable Conditions (General). If an airman's service has been honest and faithful, this characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.

Under Other than Honorable Conditions. When basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial.

Entry Level Separation. Airmen are in entry level status during 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. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or
- The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the applicant's request finding the submitted evidence is insufficient to demonstrate an existence of an error or injustice. Based on the submitted documentation, it appears the discharge processing, character of service, as well as the narrative reasoning for separation were appropriate and accomplished in accordance with Air Force policy and regulatory guidance.

An ELS, otherwise known as an uncharacterized discharge, are given to individuals who separate prior to completing 180 days of military service, or when discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or

bad, but simply denotes the service member's short time in uniform. This brief time constraint reflects an inadequate period to judge an individual's work characteristics appropriately and fairly because in the first few months of service, a new enlistee's duties revolve around training; both Basic Military Training (BMT) and technical school, prior to performing their specialized work. Therefore, an uncharacterized character of service is associated with an ELS.

The applicant is advised the current designation of Failed Medical Procurement Standards, on her DD Form 214, does not imply she knowingly or fraudulently entered military service. Medical officials determined the spondylotic (wear and tear... arthritic type) spinal changes existed prior to enlistment, plausibility of which initiated by her traumatic motor vehicle accident prior to enlistment and was not permanently aggravated by military service. Under AFI 48-123, *Medical Examinations and Standards*, attachment 3, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, traumatic arthritis of isolated joints of more than a minimal degree, that prevents the satisfactory performance of military duty is disqualifying for service entry. In this case, although the SF 600, denoted the applicant did inform the Military Entrance Processing Station (MEPS) of her condition, her enlistment physical examination was void of any such historical information and therefore, she was cleared by MEPS and service entry was achieved. It remains plausible she indeed did not have lower back pain or left knee pain while she was at MEPS, and the Medical Advisor sees no evidence of purposeful deception of withholding such medical history. In frequent cases of a very short service time, and where various pains start manifesting while in BMT, one's anatomic make-up or their physiologic predisposition for the development of pain makes symptoms appear when placed under increased activity as manifested in BMT. Since the Military Department is not equipped to retain individuals during any lengthy healing and rehabilitation process, they are more commonly released from military service; some with the opportunity to reapply following recovery. Such cases commonly result in discharge due to Failed Medical Procurement Standards or as an Erroneous Medical Entry.

Lastly, the applicant cited her 60 percent DVA disability rating and appeared to request the same rating should have been decided by the military, thus enabling her for a medical retirement. It remains paramount to brief the difference between the military and DVA disability evaluation. For awareness sake, the military's Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on future progression of injury or illness. On the other hand, operating under a different set of laws (Title 38, U.S.C.), with a different purpose, the DVA is authorized to offer compensation for any medical condition determined service incurred, without regard to and independent of its demonstrated or proven impact upon a service member's retainability, fitness to serve, or the length of time since date of discharge.

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 24 Apr 24 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 Board finds no evidence of an error with the applicant's discharge. Airmen are given entry level separation with uncharacterized service when they fail to complete a minimum of 180 days of continuous active military service and the applicant only served 1 month and 22 days of active service, therefore, the type of separation and character of service are correct as indicated on her DD Form 214. Furthermore, 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 noted the applicant's contention she was medically cleared by MEPS for enlistment in the service; however, the Board finds evidence in her records she had a pre-existing medical condition, not service aggravated, which manifested during BMT due to a motor vehicle accident and finds she was properly evaluated and discharged. The Board also took note of her DVA disability rating; however, a higher rating by the DVA, based on new and/or current exams conducted after discharge from service, does not warrant a change in a member's reason for discharge nor does it warrant a medical separation. The DVA (Title 38, U.S.C) may evaluate a member over the years and their rating may be increased or decreased based on changes in the member's medical condition at the current time. Therefore, the Board recommends against correcting the applicant's records. 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 and finds the application untimely.

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-2022-01779 in Executive Session on 18 Jun 24:

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Panel Chair
, Panel Member
Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 12 Sep 23.

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

Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 22 Apr 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 24 Apr 24.

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.

7/18/2024

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Board Operations Manager, AFBCMR
Signed by: USAF