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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2022-02282

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty* be corrected to reflect a medical separation code.

APPLICANT'S CONTENTIONS

He was medically separated which is not reflected in his current separation code of JGA, which denotes Entry Level Performance and Conduct.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman basic (E-1).

On 31 Jul 85, the applicant's commander recommended the applicant be discharged from the Air Force for entry level performance and conduct, under the provisions of AFR 39-10, *Administrative Separation of Airmen*, paragraph 5-22. The specific reasons for the action were:

- a. On 30 May 85, according to the Letter of Notification Memo, dated 31 Jul 85, the applicant was verbally reprimanded for failing to properly maintain his dormitory room.
- b. On 2 Jun 85, the applicant received an ATC Form 341, *Excellence/Discrepancy Report*, for failing to be present for bed check.
- c. On 30 Jun 85, the applicant received an ATC Form 341, for failing to report to Charge of Quarters each shift to see if he was needed.
- d. On 15 Jul 85, the applicant received a Record of Individual Counseling for failing to go at the time prescribed to his appointed place of duty.
- e. On 18 Jul 85, according to ATC Form 125A, *Record of Administrative Training Action*, the applicant was disenrolled from technical training for academic deficiency.
- f. On 23 Jul 85, the applicant received a Record of Individual Counseling for failing to secure his locker and failing to go at the time prescribed to his appointed place of duty.

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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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On 2 Aug 85, the discharge authority directed the applicant be discharged under the provisions of AFR 39-10, chapter 5, section D, paragraph 5-22 with an entry level separation without the offer of probation and rehabilitation.

On 2 Aug 85, the applicant received an entry level separation. His narrative reason for separation is "Entry Level Performance and Conduct," with a corresponding separation code of JGA. He was credited with 3 months and 24 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 and E.

APPLICABLE AUTHORITY/GUIDANCE

According to AFI 36-3208, *Administrative Separation of Airmen*, incorporating changes through 8 Jun 17, paragraph 1.18, the types of service characterization are as follows:

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

AFPC/DPMSSR recommends denying the application. A review of the available records show the applicant was counseled on multiple occasions for various failures to comply with basic standards, training and was eventually placed in remedial training, which was also unsuccessful. The

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commander provided ample justification to the Base Discharge Authority to support discharge. Furthermore, Airmen are in entry level status with uncharacterized service if discharge processing starts during the first 180 days of continuous active military service. The Department of Defense (DoD) determined that it is unfair to the member and the service to characterize such a brief period of service. Therefore, there is no error or injustice with the discharge processing.

The complete advisory opinion is at Exhibit C.

The AFBCMR Medical Advisor reviewed all available records and finds insufficient medical evidence to support the applicant's request regarding his non-medical directed separation code. Having his limited military time being well below the 180-day thresh-old to adequately rate service performance, the "entry level" notation is without error and appropriate according to AF instruction. However, the Medical Advisor recommends changing the current character of service from "not applicable" to "uncharacterized" in accordance with AF instructional guidance.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 6 Dec 22 (Exhibit D) and 22 Mar 23 (Exhibit F) for comment, 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 recommendation of AFPC/DPMSSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the Board notes the recommendation of the AFBCMR Medical Advisor to change the applicant's character of service from "not applicable" to "uncharacterized," we disagree. To address this concern, one must first look at the narrative reason for separation. In this case the narrative reason included entry level performance. Air Force regulations have long maintained an airman can be discharged under the provision of entry level performance and conduct if the discharge processing started within the first 180 days of continuous active military service. In this case, the commander-initiated separation processing on 31 Jul 85 and the applicant only served 3 months and 24 days of active service; therefore, a narrative reason for separation of entry level performance and conduct is appropriate in this case. In addition, that particular reason for separation also negates any descriptive term for use under character of service; hence, "not applicable" is appropriate. 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 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.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

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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 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-2022-02282 in Executive Session on 21 Jun 23:

Work-Product [Redacted] Panel Chair
Work-Product [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 3 Aug 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 6 Dec 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Dec 22.
- Exhibit E: Advisory Opinion, AFBCMR Medical Advisor, dated 20 Mar 23.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 22 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.

12/21/2023

Work-Product [Redacted] _____

Board Operations Manager, AFBCMR
Signed by: *Work-Product* [Redacted]