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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03252

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His entry level separation (ELS) with a narrative reason for separation of "Fraudulent Entry Into Military Service" be changed to a medical discharge.

APPLICANT'S CONTENTIONS

The Veterans Affairs (VA) awarded him a service connected disability rating of 10 percent for his irritable bowel syndrome (IBS). During his time in service, he was constantly back and forth from medical hold due to his health. Had he not been placed on medical hold so often due to his health he would have completed basic military training (BMT) and technical training.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 16 Jan 05, the applicant's commander notified him he was recommending he be discharged for fraudulent entry. The reason for the recommendation was he failed to indicate on his DD Form 2807-1, *Report of Medical History*, he had a history of mental health treatment. Had the Air Force known of his history; it could have rendered him ineligible to enlist.

On 21 Jan 05, the Judge Advocate found the recommendation for administrative discharge legally sufficient. On 22 Jan 05, the discharge authority approved the recommendation for discharge.

On 25 Jan 05, the applicant was discharged with an ELS, uncharacterized character of service, narrative reason for separation of "Fraudulent Entry into Military Service" and Reentry (RE) code "2C." His DD Form 214 does not reflect the period of service. However, he served for 103 days from his entry on active duty date of 12 Oct 04.

In a prior case (BC-2005-02110), the applicant requested his RE code and narrative reason for separation be changed to allow him to reenlist in the military service. The Board found the applicant had not presented sufficient evidence to warrant changing his narrative reason for separation. However, in the interest of justice, the Board corrected the applicant's RE code from "2C" to "3K" to denote "Secretarial Authority."

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory opinions at Exhibits D and E.

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AIR FORCE EVALUATION

AFPC/DP2SSR recommends denial. Airmen are in entry level status during the first 180 days of continuous active service. The Department of Defense (DoD) determined if a member served less than 180 days of continuous active service, it would be unfair to the member and the service to characterize their limited service.

The complete advisory opinion is at Exhibit D.

The AFBCMR Medical Advisor recommends denial. The evidence revealed there was no disqualifying medical condition during the applicant's brief period of active duty. The applicant was seen by medical for a variety of physical complaints which brought him very brief periods of restrictions and waivers. In each case, he eventually was returned to duty. Although the applicant makes note of a positive VA disability rating for IBS, such a diagnosis was never identified in his military medical records. The applicant did display infrequent gastro-intestinal symptoms, but no such diagnosis was determined and the fact of being returned to duty, his symptom severity and duration would not meet criteria for a medical board review. In addressing the applicant's concern of service connection with an impairment rating, the VA is paramount and rules in such a jurisdiction. Service connection of any illness or injury is a term whereby the VA recognizes that a disability is related to a veteran's military service in some way.

The specific items noted on his DD Form 214 is determined under DoDI 1336.01, *Certificate of Uniform Service, DD Form 214/5*. There is no section for a disability to be noted on the DD Form 214. The only time where a notation of a disability, not an impairment rating, is noted on the DD Form 214 is when a member has been separated from service by a medical board, when rated at an applicable retirement level. The applicant's frequent sick call visits, physical restrictions, waivers or VA disability rating are not, per DoD guidance, applicable items noted on any copy of the DD Form 214.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinions to the applicant on 14 Jun 23 for comment (Exhibit F) 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 recommendations of AFPC/DP2SSR and the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was in an ELS status when he was discharged and there is no evidence of a disqualifying medical condition during his brief active duty service. 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)*. 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.

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

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-2022-03252 in Executive Session on 21 Sep 23:

- Work-Product* Panel Chair
- Work-Product* Panel Member
- Work-Product* Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 10 Dec 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Record of Proceedings (BC-2005-02110), w/atchs, dated 6 Apr 06
- Exhibit D: Advisory Opinion, AFPC/DP2SSR, dated 23 May 02.
- Exhibit E: Advisory Opinion, AFBCMR Medical Advisor, dated 30 May 23.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Jun 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.

9/27/2023

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Board Operations Manager, AFBCMR

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