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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-2022-03287

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His uncharacterized character of service be upgraded to honorable.

APPLICANT'S CONTENTIONS

The Department of Veterans Affairs (DVA) has awarded him with a 100 percent service connected disability rating.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

Dated 6 Oct 89, AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to his medical condition of right knee flexion contracture secondary to right anterior cruciate ligament repair and chondromalacia patella of the right knee which existed prior to service (EPTS) and recommended discharge under other than Chap 61, 10 USC, *Retirement or Separation for Physical Disability*.

On 19 Oct 89, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant agreed with the findings and recommended disposition of the Informal Physical Evaluation Board (IPEB).

On 25 Oct 89, the Secretary of the Air Force Personnel Council (SAFPC) directed the applicant be separated from active service for physical disability due to a condition that EPTS.

On 30 Oct 89, the applicant received an Uncharacterized Entry Level Separation (ELS). His narrative reason for separation is "Disability Existed Prior to Service - No Severance Pay." He was credited with 1 month and 26 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 D.

APPLICABLE AUTHORITY/GUIDANCE

AFBCMR Docket Number BC-2022-03287

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According to the Department of the Air Force Instruction (DAFI) 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/DP2SSR recommends denying the application. Airmen are in entry level status during the first 180 days of continuous active military service. The Department of Defense (DoD) determined if a member served less than 180 days continuous active service, it would be unfair to the member and the service to characterize their limited service. Based on review of the applicant's request, there is no error or injustice with the discharge processing.

The complete advisory opinion is at Exhibit C.

The AFBCMR Medical Advisor finds insufficient evidence to support the applicant's request for an upgrade of his discharge. Despite the applicant receiving a 100 percent disability rating from the DVA, such information does not get placed on the DD Form 214, nor does it provide a pathway to obtain a military identification card.

The military's disability evaluation system (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, United States Code (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 snapshot 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 members retainability, fitness to serve, or the length of time since date of discharge.

A 100 percent DVA disability impairment rating does not automatically set parameters that by itself mandates a change in ones' service characterization from uncharacterized to honorable. The applicant's total service time was under 180 days and therefore, in accordance with regulatory guidance, the type of separation is correctly listed as ELS. 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 and technical school, prior to performing their specialized work. Therefore, an uncharacterized character of service is associated with an ELS.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 30 Jun 23 for comment (Exhibit E) 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/DP2SSR and the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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 26 days of active service, therefore, the type of separation and character of service are correct as indicated on his DD Form 214. The military's 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 post-service progression of disease or injury to which the DVA can offer compensation. 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

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, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-03287 in Executive Session on 25 Aug 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 13 Dec 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 23 May 22.
- Exhibit D: Advisory Opinion, AFBCMR Medical Advisor, dated 24 Jun 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 30 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.

3/7/2024
Work-Product
Board Operations Manager, AFBCMR
Signed by: Work-Product