



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02738

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His honorable discharge be upgraded to a medical discharge.
2. He be promoted to the grade of staff sergeant (E-5) and then technical sergeant (E-6).
3. He receive back pay for his promotions.

APPLICANT'S CONTENTIONS

He has had a brain injury since 2003, yet he still completed his enlistment and received an honorable discharge and deserves a medical discharge. Additionally, based on his time in grade (TIG), he was promoted to E-5 while in a coma but has not received the pay. Finally, his pay grade should be at least an E-6, and he should receive all associated back pay.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air National Guard (ANG) senior airman (E-4).

On 16 August 2000, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the ANG for six years in the pay grade of E-3.

On 31 August 2006, according to NGB Form 22, *Departments of the Army and the Air Force National Guard Bureau Report of Separation and Record of Service*, the applicant was honorably discharged under the authority of AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, and a reason of "Expiration Term of Service W/MSO/TRF" and block 9, *Command To Which Transferred*, indicates he was transferred to the Air Force Reserve Personnel Center (ARPC). Blocks 5a *Rank* and 5b, *Pay Grade* indicate a rank of "SrA" and pay grade of "E4", respectively, with block 6, *Date of Rank* indicating a date of rank of 1 January 2002. Block 11, *Terminal Date of Reserve/Military Service Obligation (MSO)*, indicates 15 August 2008.

On 15 August 2008, according to Reserve Order **Work-Product**, dated 19 August 2008, the applicant was relieved from assignment at ARPC and honorably discharged.

AFBCMR Docket Number BC-2022-02738

Work-Product

Controlled by: SAF/MRB

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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

Air National Guard Instruction (ANGI) 36-2502, *Promotion of Airmen*:

Table 2.1 *Eligibility Criteria for Enlisted Promotions*.

Rule 4. Promotion to E-5 (SSgt). Required 5-skill level; 48 months time in service (TIS); 24 months TIG; and completion of Airman Leadership School (ALS).

Rule 5. Promotion to E-6 (TSgt). Required 7-skill level; 72 months TIS; and 24 months TIG.

NOTE 3: TIS computations for all promotions (other than note 4) will be based on satisfactory years of service for retirement.

NOTE 5: Only satisfactory years of service for retirement will be used to meet TIG requirements.

AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the application. Currently, secondary to missing documentation, it is recommended the Board deny the applicant's request in receiving a medical discharge. There were no medical records submitted with the application. A review of all medical records that may reside in the Department of Defense (DoD) electronic medical record data bases was accomplished. However, when the electronic system was accessed for this case review, there were no relevant medical records found. Therefore, in the absence of available medical records, a medical review is unable to be performed at this time. The burden of proof is placed on the applicant to submit evidence to support their request; therefore, it is recommended the applicant make the choice to submit new and or additional evidence of his complete medical treatment records from all sources, both military and civilian, for a reconsideration of his case.

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 13 Apr 23 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board 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.
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 the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. There is no evidence in the applicant's electronic health record, and no evidence provided by the applicant, to support his contention of TBI. Further, there is no evidence the applicant was promoted to E-5, and he did not meet all the requirements for promotion to E-6 in

accordance with ANGI 36-2502. Therefore, the board 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-2022-02738 in Executive Session on 26 Jul 23:

Work-Product

Panel Chair

Work-Product

Panel Member

Panel Member

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

Exhibit A: Application, DD Form 149, dated 12 Oct 22.

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

Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 13 Apr 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Apr 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.