

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-01029

XXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

Her DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 28. *Narrative Reason for Separation*, be amended from "Pregnancy or Childbirth" to "Hardship."

### APPLICANT'S CONTENTIONS

Her son's due date was three days before her two-year anniversary. She was told she needed to be discharged before his birth. She was not told she would lose her veteran's benefits by getting discharged at 22 months. The reason she did not stay through her pregnancy is because the senior airman above her was harassing her upon her arrival.

As a young airman at her first base, she was highly impressionable and wanted to make a good impression among her peers. Her fiancé at that time came with her and she purchased an apartment for them to live off-base while preparing to get married. Later that month, the senior airman above her harassed her about him and about the reasons why she wanted to marry him. This caused a strain on her, which then caused a strain in her work environment and her relationship at home.

The senior airman would make harassing comments regarding her marriage, her family, her pregnancy, and would force her to do the senior airman's duties so the senior airman could socialize with the sergeant above both of them, taking smoke breaks that would last almost an hour. When addressing it to her technical sergeant, he said she could join them outside if she was feeling isolated. That was not her concern, but she did as he said, went outside with them, and picked up the smoking habit. Things seemed okay until she got pregnant.

The senior airman made snide comments when told she was pregnant after she failed her physical aptitude test. The senior airman exhibited frustration with her and talked about how inconvenient it was that she was pregnant and had to do paperwork. A few months later, she ran into financial hardship with her mortgage and was told by the senior airman that she needed to fix her mortgage or find a way to get discharged before she was dishonorably discharged.

She tried to catch up on her payments, but the financial strain was too much. The senior airman continued to harass her and made fun of her for the morning sickness and nosebleeds during her pregnancy while she was already dealing with financial stress. She spoke with her technical sergeant, and he advised her she could get transferred to another base and sell the house, or she could be discharged for pregnancy, but needed to be discharged before her son was born. She trusted this advice and proceeded with the discharge process. She was not told during this process she would lose her veteran's benefits by discharging before 24 months.

This is the first time she tried to use Veteran Administration (VA) benefits other than the GI Bill. She was not told she would not be eligible for a VA loan if discharged early. She did not know she could change her discharge reason on her DD Form 214 until she checked on why she was not eligible for a VA loan. The reason she did not speak up when she was in the service

regarding the harassment is she was a very young adult and thought harassment was part of being in the military. Only upon her graduation from her master's degree in human resources did she realize that harassment is not normal and should not be tolerated.

The applicant's complete submission is at Exhibit A.

## **STATEMENT OF FACTS**

The applicant is an honorably discharged Air Force airman first class (E-3).

On 1 May 06, the applicant was furnished an honorable discharge, with Narrative Reason for Separation of Pregnancy or Childbirth, Separation Code of KDF [Pregnancy or Childbirth], and credited with 1 year, 10 months, 3 days of active duty service.

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

## **AIR FORCE EVALUATION**

AFPC/DPMSSR recommends denying the application. Based on review of the applicant's request and the Master Personnel Record, there was no error or injustice with the narrative reason for separation and separation code.

The applicant submitted a request to separate based on pregnancy. She would have submitted confirmation of pregnancy and estimated delivery date for the Base Discharge Authority (BDA) to approve the request at base level. Requests under Dependency or Hardship are much more stringent, require extensive documentation of the hardship reasoning, and come to Headquarters, Air Force Personnel Center for final decision. In most cases, Red Cross verification will be necessary to accompany the application, or the BDA may ask the Red Cross to obtain additional verification of information.

In accordance with Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, Section 3C, paragraph 3.20., a basis for discharge under hardship may exist if the hardship is not temporary, conditions have arisen or have been aggravated to an excessive degree since the member entered active duty, the member has made every reasonable effort to remedy the situation, separation will eliminate or materially alleviate the condition, and there are no means of alleviation readily available other than separation. Pregnancy does not meet the standard of hardship under this guidance.

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 17 Aug 23 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 concurs with the rationale and recommendation of AFPC/DPMSSR and

finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant's circumstances did not meet the eligibility requirements for a hardship discharge in accordance with AFI 36-3208. 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)*. 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 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-2023-01029 in Executive Session on 18 Jan 24:

, Panel Chair  
, Panel Member  
, Panel Member

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

Exhibit A: Application, DD Form 149, w-o/atch, dated 31 Mar 23.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 17 Aug 23.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 17 Aug 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.

**X**

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Board Operations Manager, AFBCMR