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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01374

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COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

His narrative reason for separation be changed to "Hardship/Miscellaneous."

### APPLICANT'S CONTENTIONS

He needs this change so he can apply for Department of Veterans Affairs (DVA) benefits even though he did not serve on active duty for 24 months. He was in the process of separating from the military under the hardship program because his father broke his back and could not work and take care of his family. During the hardship process, he was told by his first sergeant he could get out faster without a hardship due to budget cuts and he would still be able to receive DVA benefits. He was turned down for DVA benefits and did research to discover he could obtain benefits if he was discharged due to hardship.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force airman (E-2).

On 12 Apr 92, DD Form 214, *Certificate of Release or Discharge from Active Duty*, provided by the applicant, reflects he was honorably discharged in the grade of airman (E-2) after serving 1 year, 2 months, and 20 days of active duty. He was discharged, with a narrative reason for separation of "Voluntary-Miscellaneous Reasons."

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

### AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the application finding no error or injustice with the applicant's discharge from the Air Force. The applicant's Master of Personnel Record is missing the separation documentation; however, based on the applicant's statement and the presumption

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of regularity, the applicant was separated from active duty under the “Miscellaneous/General Reasons” provision versus “Hardship.” Applicants requesting separation based on dependency or hardship must follow the strict guidelines set forth in AFR 39-10, *Administrative Separation of Airmen*, paragraph 3-19 which states airmen may request discharge when genuine dependency or undue hardship exists. The basis for discharge may exist when: (1) the dependency or hardship is not temporary; (2) conditions have arisen or have been aggravated to an excessive degree since the airman entered active duty; (3) the airman has made every reasonable effort to remedy the situation; (4) separation will eliminate or materially alleviate the conditions; and (5) there are no means of alleviation readily available other than the separation. Undue hardship or dependency does not necessarily exist because of altered present or expected income or the family is separated or must suffer the inconvenience usually incident to military service. Applicants submitting dependency or hardship separation requests under this authority must submit a thorough explanation as to the circumstances causing the hardship along with extensive supporting documentation. In most cases, Red Cross verification will also be necessary to accompany the application, or the base separations authority may ask the Red Cross to obtain additional verification of documentation. HQ AFPC is the final approval authority for enlisted discharges of this nature. Based on the circumstances in the applicant’s statement as to the hardship reason, it is highly unlikely AFPC would have approved the request under that provision but would have recommended “Miscellaneous/General Reasons” as a more appropriate provision instead.

In contrast, service members who request separation for miscellaneous reasons under this authority are only required to submit an application with basic justification. The request is sent to the applicant’s immediate commander for recommendation and is then forwarded to the base separation authority for final decision. If approved, a separation date is established and the discharge processing for the applicant can begin. This is a routine process that can be expedited as necessary. It is AFPC/DPMSSR’s conclusion the applicant’s unit advised him to pursue a miscellaneous or general type of separation provision in order to facilitate a faster process for discharge, therefore, he did not pursue submitting a separation application under the hardship provision. AFPC/DPMSSR cannot state approval of a hardship separation would have been granted, nor can award of extra service time to the applicant’s total active service that was not performed while on active duty prior to separation in order to meet the DVA’s requirement be granted. Since this situation is primarily due to the DVA’s specific regulations, it is recommended the applicant pursue an appeal process directly through their organization.

The complete advisory opinion is at Exhibit B.

## **APPLICANT’S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 22 Mar 24 for comment (Exhibit C) 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. Due to the applicant's discharge documents not being available and based off of the applicant's own statements, the Board applied the presumption of regularity and determined no error or injustice occurred during the applicant's separation process. Furthermore, the Board finds it unlikely the applicant would have qualified for a hardship discharge based on the evidence presented and under the provisions of AFR 39-10, paragraph 3-19. Therefore, the Board recommends against correcting the applicant's records. 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 and finds the application untimely.
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-2023-01374 in Executive Session on 30 Oct 24:

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 15 Apr 23.

Exhibit B: Advisory Opinion, AFPC/DPMSSR, dated 13 Feb 24.

Exhibit C: Notification of Advisory, SAF/MRBC to Applicant, dated 22 Mar 24.

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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.

12/9/2024

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Board Operations Manager, AFBCMR  
Signed by: USAF

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