



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02367

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His uncharacterized entry level separation (ELS) be upgraded.

APPLICANT'S CONTENTIONS

He was separated due to the asthma attack he had during physical training and was sent to the hospital. He was tested and it was determined he had asthma. He never had problems with asthma prior to the military and contributes his asthma to the humidity. He was told he could not be in the military with asthma and was discharged. He was separated for medical reasons and should be given an upgrade to his discharge as it seems his current discharge reflects, he could not handle being in the military due to performance issues, which is untrue.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

Dated 5 Feb 01, the applicant's DD Forms 2807-1 and 2808, *Report of Medical History* and *Report of Medical Examination* show no history of asthma.

On 4 Apr 01, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.14 for erroneous enlistment. The specific reasons for the action were due to the medical narrative summary, dated 23 Mar 01, which found the applicant did not meet the minimum medical standards to enlist due to asthma.

On 4 Apr 01, the discharge authority directed the applicant be discharged with an ELS under the basis of an erroneous enlistment, with an uncharacterized service characterization.

On 9 Apr 01, the applicant received an uncharacterized ELS. His narrative reason for separation is "Failed Medical/Physical Procurement Standards" and he was credited with 1 month, and 19 days of total active service.

AFBCMR Docket Number BC-2023-02367

Work-Product

Controlled by: SAF/MRB
CUI Categories: Work-Product
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 advisories at Exhibits C and E.

APPLICABLE AUTHORITY/GUIDANCE

AFI 36-3208, *Administrative Separation of Airmen*, dated 10 Mar 00, describes the authorized service characterizations that were applicable at the time of the applicant's separation.

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 finding no error or injustice with the discharge processing or the preparation of the DD Form 214. In accordance with AFI 36-3208, 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.

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 20 Mar 24 for comment (Exhibit D), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the application finding the evidence submitted by the applicant insufficient to demonstrate he was the victim of either an applied error or calculated injustice. His submitted evidence which clearly noted a condition that EPTS and was not service aggravated. Command leadership made the appropriate notifications to the applicant and followed the administrative out-processing from the service in accordance with applicable service and DoD regulations.

Other than the sole SF 600 from his Medical Wing diagnosing asthma, medical records during his reported time in the service were not available for review. Clearly, inconsistencies existed whereby the applicant at one time stated he forgot he had asthma, but his entrance physical examination (PE) documented the applicant denied ever having asthma. Again, in Mar 01, his spoken words of has asthma, last attack approximately six years ago solidified his condition existed prior to service (EPTS). There was no evidence of service aggravation above the known natural progression of said condition.

The Air Force followed the appropriate use of established policies for the separation of members, who within the first 180 days of service, demonstrate the inability to complete Basic Military Training (BMT). Unless warranting a referral through the Disability Evaluation System (DES) for completion of a Medical Evaluation Board (MEB) and subsequent fitness and rating determination by a Physical Evaluation Board (PEB), or other basis for discharge, then a service member is released as an ELS with an uncharacterized characterization of service. This is a discharge does not attempt to characterize the type of service as either 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 BMT and technical school, prior to performing their specialized work. Under such separation actions for conditions occurring so soon after entering military service, and where the evidence shows the condition existed prior to entering service, the reason for separation may be designated as Erroneous Entry, Failed Medical Procurement Standards, or Fraudulent Entry; the latter reserved for individuals who knowingly failed to disclose a pre-existing medical condition on entering military service.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 13 Aug 24 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 recommendation of AFPC/DP2SSR and the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Based on the available evidence of record, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. The applicant provided no evidence which would lead the Board to believe his service characterization was contrary to the provisions of the governing regulations. 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 19 days of active service; therefore, the type of separation and character of service are correct as indicated on his DD Form 214. Additionally, the Board finds the preponderance of evidence shows his medical condition of asthma EPTS and was not permanently aggravated by his military service beyond the natural progression of the disease. 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.

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-2023-02367 in Executive Session on 12 Sep 24 and 14 Sep 24:

Work-Product

Panel Chair
, Panel Member
, Panel Member

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

- Exhibit A: Application, DD Form 149, dated 21 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2SSR, not dated.

AFBCMR Docket Number BC-2023-02367

Work-Product

Work-Product

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Mar 24.

Exhibit E: Advisory Opinion, AFBCMR Medical Advisor, dated 12 Aug 24.

Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Aug 24.

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.

9/19/2024

Work-Product

Board Operations Manager, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2023-02367

Work-Product