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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03172

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COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His uncharacterized entry level separation (ELS) be changed to honorable.

### APPLICANT'S CONTENTIONS

His disqualifying rhabdomyolysis was not a medical condition that existed prior to service (EPTS). As of 2 Aug 23, his characterization was changed to honorable by the Department of Veterans Affairs (DVA) board of appeals when his disability was determined to be service-connected.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

Dated 6 Apr 06, the applicant's DD Forms 2807-1 and 2808, *Report of Medical History* and *Report of Medical Examination* show no history of medical problems and show he was qualified for service.

On 31 Oct 06, AF Form 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for rhabdomyolysis which indicates this condition EPTS, not service aggravated.

On 14 Nov 06, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant's medical condition of rhabdomyolysis was rated as a Category II condition that can be unfitting but was not currently compensable or ratable with a recommendation of "Discharge Under Other Than Chapter 61, Title 10 U.S.C. (EPTS). It was noted his medical condition of rhabdomyolysis was due to a muscle condition that EPTS.

On 15 Nov 06, AF IMT 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant agreed with the findings and disposition of the board and waived his right to a formal hearing.

**AFBCMR Docket Number BC-2023-03172**

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Controlled by: SAF/MRB  
CUI Categories: Work-Product  
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On 21 Nov 06, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was discharged with an uncharacterized ELS after serving two months and three days of active duty. He was discharged, with a narrative reason for separation of "Disability Existed Prior to Service-PEB."

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

## APPLICABLE AUTHORITY/GUIDANCE

AFI 36-3208, *Administrative Separation of Airmen*, dated 9 Jul 04, 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/DPMSSR 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 18 Jan 24 for comment (Exhibit D), and the applicant replied on that same day. In his response, the applicant contends the advisory opinion was not based on factual information implying his enlistment was fraudulent. The board of appeals for the DVA determined his condition of rhabdomyolysis did not EPTS and his service was honorable. He enlisted through the Military Entrance Processing Station (MEPS) healthy and ready for service. The AFI referenced, AFI 36-3802, only applies to erroneous or fraudulent enlistments as his discharge was not caused by misconduct or fraud. An honorable discharge may be authorized if the airman's service, apart from the reason for separation, has been so meritorious that any other characterization would be clearly inappropriate which applies in his case. Furthermore, the statement "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" is not found anywhere in the AFI nor cited in any other DoD document.

The applicant's complete response is at Exhibit E.

### **ADDITIONAL AIR FORCE EVALUATION**

The AFBCMR Medical Advisor recommends denying the application finding insufficient evidence to support the applicant's request. Per the DoDI 1332.38, *Disability Evaluation System*, section E3.P4.5.4.1, signs or symptoms of chronic disease identified so soon after the day of entry on Military Service (usually within 180 days), that the disease could not have originated in that short a period, will be accepted as proof the disease manifested prior to entrance into active Military Service. Although rhabdomyolysis is not considered a chronic disease, it is a transient, potentially unpredictably recurrent syndrome that falls within the meaning of that paragraph, and the applicant did not dispute the IPEB's finding it rendered him unfit for continued military service. There are approximately 26,000 cases of rhabdomyolysis reported annually in the United States and though recurrence is most often associated with inherited disorders that affect muscle, this is not exclusively the case. The applicant provided no evidence regarding the etiology of his unfitting condition, and none could be found in his electronic medical records. In the absence of such evidence, there is no basis upon which to recommend overcoming the directive expressed in the DoDI 1332.38 section E3.P4.5.4.1, the applicant's rhabdomyolysis be deemed as EPTS.

It should be noted that the applicant submitted documents from the DVA indicating a service-connection for his rhabdomyolysis and made numerous references to this fact in his rebuttal statement. However, the military's Disability Evaluation System (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 the contrary, the DVA, operating under a different set of laws, Title 38, U.S.C., is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating awards as the level of impairment from a given medical condition may vary (improve or worsen) over the lifetime of the veteran. In short, a finding by the DVA the applicant's rhabdomyolysis was service connected does not in itself constitute evidence this condition would or should have made him eligible for a medical separation or retirement under the DES.

The complete advisory opinion is at Exhibit F.

#### **APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 15 May 24 for comment (Exhibit G), but has received no response.

#### **FINDINGS AND CONCLUSION**

1. The application was 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 recommendations of AFPC/DPMSSR and the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Characterization of service is not determined by the DVA. An ELS is 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 (BMT) and technical school, prior to performing their specialized work. Furthermore, the applicant provided insufficient evidence an honorable service characterization during his active service is clearly warranted by unusual circumstances of personal conduct and performance of military duty. Additionally, the Board notes the applicant's contention his rhabdomyolysis was not a medical condition which EPTS; however, finds his condition could not have originated in the first few days he was at BMT before he was diagnosed and therefore finds his condition EPTS. Therefore, the Board recommends against correcting the applicant's records.

## RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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-2023-03172 in Executive Session on 3 Jul 24:

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Panel Chair  
Panel Member

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Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 11 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 11 Jan 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Jan 24.
- Exhibit E: Applicant's Response, w/atchs, dated 18 Jan 24.
- Exhibit F: Advisory Opinion, AFPC/DP3SP, w/atchs, dated 4 May 24.
- Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 15 May 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.

7/22/2024

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Board Operations Manager, AFBCMR  
Signed by: USAF