



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03365

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her Reentry (RE) code be changed from "2Q" which denotes personnel medically retired or discharged to "1A" which denotes ineligible to reenlist, but condition waived (this code is not used to separate airmen), "3B" which denotes First Term Airman (FTA) who was ineligible to reenlist, ineligibility condition no longer exists (this code is not used to separate airmen), or "3A" which denotes FTA who separates before completing 36 months on current enlistment (no known disqualifying factors or was pregnant before their enlistment).

APPLICANT'S CONTENTIONS

She would like her RE code changed, if applicable, learning of her pregnancy within a year of joining the military. She would like this change made so she can reenlist in the military. She feels there was harassment involved in her case and her commander was not supportive of her needs. There are no medical records or complaints of upper back pain after joining the Air Force. According to the regulations, a medical board should be held if an airman can no longer perform their duties. The only documentation provided in her medical records by her doctors was reference specifically to the lower back tailbone. The Physical Evaluation Board (PEB) states a physical assessment was performed as well as magnetic resonance imaging (MRI) which showed no evidence of herniated disc or nerve compression. This was true because her injury was based on bruising and not a permanent disposition or injury; however, she was permanently discharged for temporary bruising to her tailbone citing there was a pre-existing injury. Nonetheless, the only instances of back pain experienced were with pregnancy in the latter stages. Her condition was erroneously determined to have existed prior to service (EPTS); however, she experienced tailbone pain due to performing sit-ups on concrete at Basic Military Training (BMT). She had no prior injury to her tailbone and this injury was wrongfully attached to her previous upper back soreness due to a car accident two years prior to joining the military.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

AFBCMR Docket Number BC-2023-03365

Work-Product

Controlled by: SAF/MRB
CUI Categories: Work-Product
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

On 29 Aug 00, the applicant's *Report of Medical Examination* or *Report and Medical History* does not indicate she had any issues with her back or prior back injuries.

On 28 Mar 03, the Secretary of the Air Force Personnel Counsel (SAFPC) directed the applicant be discharged under other than Chapter 61, Title 10, U.S.C. for a medical condition that EPTS without service aggravation (letter provided by the applicant). The applicant petitioned the board to be returned to duty or to find her chronic lower back pain as service-connected; however, the board found her duties as a Dental Assistant requiring prolonged bent-over posture, caused her great pain and prevented her from performing her duties. The board further found her motor vehicle accident in 1999, prior to service, resulting in back pain and the reoccurrence of back pain while attending BMT without evidence of a new injury most likely was the result of the injury she sustained prior to service.

On 13 May 03, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of airman first class (E-3) after serving 1 year, 8 months, and 22 days of active duty. She was discharged, with a narrative reason for separation of "Disability Existed Prior to SVC-PEB."

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

APPLICABLE AUTHORITY/GUIDANCE

Per Air Force Instruction (AFI) 36-2606, *Reenlistment and Extension of Enlistment in the United States Air Force*, paragraph 5.12, RE codes determine whether or not airmen may reenlist, or enlist in a military service at a later time. They are annotated on military discharge documents and document the airman's RE code at the time of discharge.

Per Department of the Air Force Manual (DAFMAN) 36-2032, *Military Recruiting and Accession*, paragraph 3.4.1, for enlistment waiver authority, the AETC/SG (or appropriate Regular Air Force major command Surgeon General), ANG Command Surgeon (NGB/SG), or AFRC Command Surgeon (AFRC/SG), as appropriate, is the authority to waive physical standards for enlistment in accordance with AFI 48-123, *Medical Examinations and Standards*. Per paragraph 3.7.1.1, the applicant's ability to enlist is determined by reviewing prior service reenlistment eligibility code and other factors. Individual components will do a service eligibility determination to determine applicant's eligibility. Per paragraph 3.7.2, a waiver is a formal request to consider the suitability for service of an applicant who because of inappropriate conduct or morals violations, dependency status, current or past medical conditions may not be qualified to serve. Upon the completion of a thorough examination using a "whole person" review, the applicant may be granted a waiver if the applicant has displayed sufficient mitigating circumstances that clearly justify waiver consideration. For medical conditions, this may require a new physical examination with appropriate medical evaluation to determine medical qualification to enter the Air Force per Department of Defense Instruction (DoDI) 6130.03, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, and AFI 48-123.

AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the applicant's request for relief claiming the PEB's explanation is erroneous due to her complaint of tailbone pain while in basic training and at her first duty station. As per her own written words, she does report informing her leadership of tail-bone pain at her first duty station, but there is no definitive evidence to support such self-reported history or the claim of performing sit-ups on concrete causing any adverse medical condition. There exists a preponderance of evidence in refuting the applicant's reported claim the only documentation provided in her medical records was referenced specifically to the lower back tail-bone condition. The documentation of the reasoning to obtain x-rays coupled with the frequency of a provider citing the thoracic or mid spine area supports such a preponderance. Additionally, coupled with such documentation in an individual with a positive history of a painful injury secondary to a prior motor vehicle accident involving the same spinal area is highly plausible as the etiologic nexus, thus in line with the Disability Evaluation System (DES) processing board's decisions. Although the applicant self-reported she continued to perform her military duties as a dental assistant, she also reported inability to sit due to pain which would be considered a potentially unfitting condition and possibly be eligible for processing through the DES. Her out-processing via the DES was accomplished in an appropriate manner according to regulatory 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 30 May 24 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 the AFBCMR Medical Advisory and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board finds her discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Furthermore, they find no error or injustice occurred during the disability processing of her case. The preponderance of evidence indicates the applicant's back injury was properly accessed as to have EPTS and not due to her pregnancy or an injury sustained at BMT; therefore, the Board finds her assigned RE code was within the provisions of the governing regulation at the time of her separation. The Board understands the applicant's desire to change the RE code to reenter the service; however, the RE code annotated on her DD Form 214 represents the condition to which she was separated and is not subject to change unless an error was made in the original annotation. This decision does not preclude the applicant from pursuing a medical waiver through recruiting services for reentry into

the military as outlined in DAFMAN 36-2032. 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 applicant 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-2023-03365 in Executive Session on 17 Jul 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, w/atchs, dated 10 Oct 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 22 May 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 30 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.

7/30/2024

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2023-03365

Work-Product