

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-03576

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be amended to change:

- a. Block 12b, *Separation Date This Period*, from "1994 Dec 22" to "1996 Dec 24."
- b. Block 24, *Character of Service*, from "Uncharacterized" to "Honorable."

### APPLICANT'S CONTENTIONS

His DD Form 214 is not correct. His character of service is honorable. Also, the record of service is not correct. The date entered is correct, but the separation dates are wrong. It should be 24 Dec 96. He is not sure why there is an error, but the records the Board has will satisfactorily appear in the records. He has no way of knowing when the error occurred. A discovered error should always be corrected.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 16 Dec 94, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, Section D, paragraph 5.22.2. The specific reasons for the action were:

a. [The applicant] did, on or about 12 Oct 94, at Sheppard AFB, Texas (TX), bring discredit upon himself and the United States Air Force, to wit: He left Sheppard AFB, TX without out-processing through the Military Personnel Flight as he was directed to do. He also misled several individuals into thinking he was married. By this action, he caused extra paperwork to be generated and action to be taken that was not necessary. For his actions, he received an LOR on 20 Oct 94, with a corresponding Unfavorable Information File.

b. [The applicant] did, on 18 Nov 94 and 28 Nov 94, at Holloman Air Force Base (AFB), New Mexico (NM), make a false official statement to the senior leadership of the Fuels Management Flight concerning a U-Haul truck rental and mode of transportation during his leave granted 18 – 25 Nov 94. For his actions, he received a Letter of Reprimand (LOR) on 29 Nov 94. In addition, for his actions, he received an Article 15 for violation of Article 107, UCMJ, on 16 Dec 94.

c. [The applicant] did, on or about 30 Nov 94, at Holloman AFB, NM, make a false statement that he had an appointment for marriage counseling at the Family Support office. Further investigation disclosed he did not have said appointment, and the Family Support office did not have any record of a walk-in appointment. In addition, he failed to attend and/or sign in at the mandatory base-wide security training. For his actions, he received an LOR on 7 Dec 94.

d. [The applicant] did, on or about 5 Dec 94, without authority, fail to go at the time prescribed to his appointed place of duty. For his action, he received an Article 15 for violation of Article 86, Uniform Code of Military Justice (UCMJ), on 16 Dec 94.

e. [The applicant] did, on or about 5 Dec 94, at or near Holloman AFB, NM, with intent to deceive, make an oral statement to a noncommissioned officer, to wit: he was not fined for a certain traffic citation and he plead not guilty to that citation and that arrangements needing to be made relating to his defense of that citation was what delayed his return to duty, which statement was totally false and then known by him to be so false. For his actions, he received an Article 15 for violation of Article 107, UCMJ, on 16 Dec 94.

On 21 Dec 94, the Staff Judge Advocate found the discharge action legally sufficient.

On 22 Dec 94, the discharge authority directed the applicant be discharged for unsatisfactory performance, with an entry level discharge. Probation and rehabilitation were considered, but not offered. On this same date, the applicant received an uncharacterized discharge. His narrative reason for separation is "Entry Level Performance and Conduct" and he was credited with 5 months and 16 days of total active service.

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

## **APPLICABLE AUTHORITY/GUIDANCE**

AFI 36-3208, *Administrative Separation of Airmen*, dated 14 Oct 94, Chapter 1 – *General Procedures*:

### **1.19. Separation Without Service Characterization:**

1.19.1. *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:

1.19.1.1. 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

1.19.1.2. 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. The separation authority will forward a recommendation for an honorable characterization to HQ AFMPC/DPMARS2, 550 C Street West, Ste 11, Randolph AFB TX 78150-4713, for review and further processing. Use this characterization if the reason for separation is:

- A change in military status according to chapter 2; or
- For the convenience of the government according to chapter 3; or
- For disability according to AFI 36-2902 (formerly AFR 35-4); or
- Directed by the Secretary of the Air Force according to paragraph 1.2.

## **AIR FORCE EVALUATION**

AFPC/DP2SSR recommends denying the application. Based on review of the applicant's request, there is no error or injustice with the discharge processing.

Airmen are in entry level status during the first 180 days of continuous active military service. The Department of Defense 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 4 Apr 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 AFPC/DP2SSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. The characterization of the applicant's service was in accordance with AFI 36-3208. Additionally, the applicant provided no evidence to support his contention regarding an erroneous date of separation. The administrative discharge package filed in the applicant's official military personnel record supports the date of discharge reflected on his DD Form 214. 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 (DAFI) 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 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-03576 in Executive Session on 12 Nov 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, dated 16 Oct 23.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 23 May 22.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 Apr 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.

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Board Operations Manager, AFBCMR