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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00876

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His separation code and corresponding narrative reason be changed.
2. His reentry (RE) code be changed.

APPLICANT'S CONTENTIONS

He was separated for omitting information on his enlistment paperwork upon the advice of his recruiter. During Basic Military Training (BMT), he included the information that was originally omitted for fear of reprisal and punishment. He was never given the opportunity to complete BMT or appeal the decision to separate him. He was simply processed out for an unjust separation. Because he listened to the advice from his recruiter, he was separated and would still be serving today if not for this advice. He would like to pursue a career in the National Guard.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 26 Aug 98, 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 5.15 for fraudulent entry. The specific reason for the action was due to the applicant's history of Reflex Sympathetic Dystrophy Syndrome (RSDS) which rendered him medically disqualified from service; however, the applicant's medical history did not indicate this condition. On this same date, the applicant acknowledged the discharge recommendation and indicated he waived his rights to counsel and to submit a statement.

On 28 Aug 98, the discharge authority directed the applicant be given an ELS with an uncharacterized service characterization.

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

On 31 Aug 98, the applicant received an “Uncharacterized” ELS. His separation code of “JDA” and corresponding narrative reason for separation is “Fraudulent Entry into Military Service” and he was credited with zero days of total active service. His RE code of “2C” denotes involuntarily separated with an honorable discharge, or entry level separation without characterization of service.

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 codes 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.

AFI 36-3208, *Administrative Separation of Airmen*, dated 14 Oct 94, 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.

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.

According to AFI 36-3202, *Separation Documents*, Table 4, note 3, time spent in an enlistment that is determined to be fraudulent and has been specifically terminated by reason of fraud is not creditable service.

AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the applicant's request change the characterization of his discharge. From a medical standpoint, the Air Force acted properly in administering the applicant's ELS, as his previously undisclosed chronic condition was discovered during BMT in-processing and was disqualifying for enlistment and remains so today. Consequently, no error or injustice occurred in the applicant's ELS proceedings. It is unlikely his RSDS, extensively documented in his medical record, would not have manifested itself at some point after he began BMT, given its apparent severity in the years and months preceding his enlistment. The Department of Defense Directive (DoDD) 6130.3, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, which was in effect at the time of the applicant's brief Air Force service, listed medical conditions that were disqualifying for entry. Although that document was not available for review, a subsequent version was, namely DoD Instruction (DoDI) 6130.03 which superseded DoDD 6130.3 in Apr 10. This version revised the format and the nomenclature of the directive but did not substantively change the medical standards, which would have been very similar, or in many cases, identical, to those in effect in 1998. The applicant's RSDS or Complex Regional Pain Syndrome (CRPS) was then, and remains now, disqualifying for enlistment, per the DoDI 6130.03, Enclosure 4, Section 26, *Neurologic*, paragraph M, current or history of paralysis, weakness, lack of coordination, chronic pain (including but not limited to chronic regional pain syndrome [emphasis added] or neuralgias), or sensory disturbance or other specified paralytic syndromes (344), including but not limited to Guillain-Barre Syndrome (357.0).

Undisputedly, and by his own admission, the applicant failed to disclose his pre-existing shoulder injury and the resulting RSDS, regardless of whether this may have occurred due to bad advice possibly received from a recruiter. His narrative reason for separation, "Fraudulent Entry Into Military Service," is addressed in the AFI 36-3208, Chapter 5, *Reasons for Involuntary Separation*. In Section 5C of that document, *Defective Enlistments*, paragraph 5.13.4. *Fraudulent Entry*, reads, a fraudulent entry is one involving deliberate deception on the part of the member. Medical circumstances meeting this definition are generally determined to involve conditions that pre-existed military service and were known to the enlistee but deliberately concealed or misrepresented. The medical evidence in this case does not necessarily support deliberate concealment or misrepresentation, although it also does not support lack thereof, given the fact the

applicant had confirmed ongoing RSDS symptoms at the time of his BMT in-processing. Per the Narrative Summary (NARSUM), these chronic symptoms also appeared to have been present at the time surrounding his enlistment physical examination and should not have been difficult for him to remember to report.

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 27 Jan 25 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 finds his discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion as the applicant had a pre-existing medical condition that was not disclosed which prompted the fraudulent entry discharge. Furthermore, the Board concurs with the rationale and recommendation of the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. It is noted, the applicant claims he received bad advice from his recruiter therefore he did not disclose his medical condition upon enlistment; however, the Board finds the applicant's medical condition of RSDR and his pre-existing shoulder injury were and still are disqualifying medical conditions for military service. Lastly, the applicant has provided no evidence which would lead the Board to believe his RE code was contrary to the provisions of the governing regulation at the time of his separation. The Board understands the applicant's desire to change the RE code to allow reentry into the service; however, the RE code annotated on his DD Form 214 represents the conditions under which he 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. Each component can waive the RE code and enlist an individual if they determine the needs of the component outweigh the reason for the RE code condition/risks; the AFBCMR is not the reenlistment waiver authority. 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-2024-00876 in Executive Session on 19 Feb 25 and 28 Feb 25:

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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, dated 6 Mar 24.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 27 Jan 25.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Jan 25.

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.

2/25/2025

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Board Operations Manager, AFBCMR

Signed by: USAF