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**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS****RECORD OF PROCEEDINGS****IN THE MATTER OF:**

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DOCKET NUMBER: BC-2024-02047**COUNSEL:** Work-Product**HEARING REQUESTED:** YES**APPLICANT'S REQUEST**

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, dated 15 Aug 97, Block 15a. *Member Contributed to Post-Vietnam Veterans' Educational Assistance Program (VEAP)*, be changed to reflect "Yes."

APPLICANT'S CONTENTIONS

He very clearly contributed to VEAP during and after Basic Military Training. Knowing how the Air Force worked back in the day, he is fairly confident this is not a simple error as his DD Form 214 may have been marked "No" solely due to his discharge character of service, Under Honorable Conditions (General). Because of this, he has not been able to apply for the GI Bill since separating in 1997 and it has caused significant hurdles in his employment opportunities for many decades. He makes this request based on two extenuating circumstances: he made proper and required contributions to VEAP for GI Bill eligibility; his character of service qualifies him for the GI Bill, but he was not given eligibility.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a separated Air Force airman (E-2).

On 7 Jul 94, according to DD Form 4, *Enlistment/Reenlistment Document, Armed Forces of the United States*, provided by applicant, he enlisted in the Air Force Reserve for the purpose of enlistment in the Delayed Entry Program for an enlistment in the Regular Air Force for a period not less than four years with a report no later than date of 5 Jul 95.

On 15 Aug 97, according to the applicant's DD 214, he entered active duty of 2 Feb 95 and was separated on 15 Aug 97 with a narrative reason for separation of "Misconduct." Block 18, *Remarks*, provides the following comment "Member has not completed first full term of service" and Block 24, *Character of Service*, reflects "Under Honorable Conditions (General)." Block 12, *Record of Service*, reflects he was credited with 2 years, 6 months, and 14 days of active service.

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

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

APPLICABLE AUTHORITY/GUIDANCE

Department of Defense Directive (DoDD) 1322.16, *Montgomery GI Bill (MGIB) Program*, 18 Jun 02, paragraph 5.3.2, Ensure all eligible active duty enlisted Service members are aware they are automatically eligible for educational assistance under the MGIB Program, and will have their pay reduced by 1,200 dollars (\$100 a month for the first 12 months of service) unless they elect not to receive such benefits, except as otherwise provided under specific authority, such as transition benefit programs. Enrolled Service members who elect not to use the benefit or who fail to qualify for the benefit may not recover the amount previously reduced from their pay.

5.3.3. Ensure all eligible active-duty Service members are counseled and given the opportunity to disenroll from the MGIB Program within 2 weeks of entry on active duty. The DD Form 2366, "Montgomery GI Bill Act of 1984 (MGIB)," shall be used for enrollment or disenrollment.

U.S. Department of Veterans' Affairs website, *VA.gov>Education and training>About GI Bill Benefits>Montgomery GI Bill Active Duty (MGIB-AD)*. *Am I eligible for education benefits through the MGIB-AD program?* You may be eligible for education benefits through this program if you were **honorably discharged** and you meet the requirements of one of these categories.

One of these categories must describe you

Category I

All of these are true:

- You have a high school diploma, GED, or 12 hours of college credit, and
- You entered active duty for the first time after June 30, 1985, and
- You had your military pay reduced by \$100 a month for the first 12 months of service

And you've served continuously (without a break) for at least one of these time periods:

- 3 years, **or**
- 2 years *if that was your agreement* when you enlisted, or
- 4 years if you entered the Selected Reserve within a year of leaving active duty (called the 2 by 4 program)

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The Veterans' Educational Assistance Program, 38 USC Chapter 32, §3221, was enacted to provide an education benefit to individuals entering active duty between 1 Jan 77 and 31 Mar 85 and required eligible members to enroll anytime between those dates. The applicant served on active duty from 2 Feb 95 to 15 Aug 97. Public Law 99-576, Section 309, amended 38 USC Chapter 21 prohibited new VEAP enrollments after 31 Mar 87.

To grant relief would be contrary to the criteria established by 38 USC Chapter 32, §3221 and Public Law 99-576, Section 309.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

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The Board sent a copy of the advisory opinion to the applicant on 13 Sep 24 for comment (Exhibit D), and the applicant replied on 19 Sep 24. His response consisted of a letter of support attesting to how he has overcome childhood adversity and changed his life for the better since his discharge.

The applicant's complete response is at Exhibit E.

REVISED AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the applicant's request. In this revised advisory opinion DP3SA states that when the applicant entered service on 2 Feb 95, he was enrolled in and contributed to the Montgomery GI Bill (MGIB) program; however, unless the applicant's Character of Service of Under Honorable Conditions (General) is upgraded to Honorable, he is ineligible to use MGIB benefits.

Therefore, based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. Although he did contribute to the MGIB program, he did not contribute to VEAP. His DD Form 214 is correct.

The complete advisory opinion is at Exhibit F.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 20 Mar 25 for comment (Exhibit G) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. 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)*. 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.
2. The applicant did not exhaust 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 AFPC/DP3SA advisory opinion signed 19 Mar 25 and finds a preponderance of the evidence does not substantiate the applicant's contentions. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.
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

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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-2024-02047 in Executive Session on 8 Apr 25:

Work-Product Panel Chair

Work-Product Panel Member

Work-Product Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 5 Jun 24.

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

Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atch, dated 11 Sep 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Sep 24.

Exhibit E: Applicant's Response, w/atchs, 19 Sep 24.

Exhibit F: Advisory Opinion, AFPC/DP3SA, dated 19 Mar 25.

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

4/23/2025

X

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Board Operations Manager, AFBCMR

Signed by Work-Product

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