

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00530

COUNSEL:

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

1. Her character of service be changed to reflect a medical/disability retirement rather than entry level.
2. Her reentry code of 3A (First-term airman who separates before completing 36 months (60 months for a 6-year enlistee) on current enlistment and who has no known disqualifying factors or ineligibility conditions except grade, skill level, and insufficient Total Active Federal Military Service (TAFMS)) be changed.
3. Her narrative reason for separation (Entry Level Performance and Conduct) and corresponding separation code of "JGA" be changed.

APPLICANT CONTENDS THAT:

In June 2011, she was sexually assaulted and stalked by two airmen - which led to a mental break down. She was hospitalized, treated and diagnosed with anxiety disorder not otherwise specified and adjustment disorder with anxious mood. She experienced problems with concentration, panic attacks, obsessive behavior, communication, and insecurities. When she returned to work - she felt that her command was not supportive but hostile towards her. She was assigned a sexual assault advocate and an investigator to work her case. The investigator treated her like a villain rather than a victim. She believes she was tricked by the investigator to say what he wanted her to say. She eventually met with her commander and was informed that she was being discharged for entry level performance and conduct.

The actions of her command were unconscionable and equity requires that this injustice be rectified. She has been diagnosed with Post Traumatic Stress Disorder (PTSD). Her condition is so severe that the Department of Veterans Affairs (DVA) granted her a 100 percent disability. She should not have been punished by the command for her illness. The command should have instead sent her to a medical evaluation board to be medically retired.

In support of the applicant's appeal, she provides a personal statement, documents extracted from her military personnel records, and documentation from the DVA.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 1 February 2011.

The applicant was notified by her commander of his intent to recommend that she be discharged from the Air Force under the provisions of AFPD 36-32 and AFI 36-3208, Entry Level Performance or Conduct: Failure to adapt to the military environment; and Failure to make satisfactory progress in a required training program. The specific reasons are at the Notification Memorandum (items a through n) which is at Exhibit B.

The legal review for discharge action by the staff judge advocate reflects an investigation was conducted regarding two allegations by the applicant of sexual assault. As a result of the investigation, the applicant's allegations were found to be unsubstantiated. The incidents surrounding the alleged assaults were determined to be consensual by all parties involved and on 20 July 2011, the investigation was closed.

She was advised of her rights in this matter and elected to submit a statement on her own behalf. In a legal review of the case file, the staff judge advocate found the case legally sufficient and recommended discharge. The discharge authority concurred with the recommendation and directed an entry level separation. The applicant was discharged on 11 August 2011. She served 6 months and 11 days on active duty.

AIR FORCE EVALUATION:

AFPC/DPSOS recommends changing the character of service to reflect "Uncharacterized". DPSOS states there is an error in the applicant's character of service as reflected on her DD Form 214, *Certificate of Release or Discharge from Active Duty*. The applicant's type of separation is considered "entry level"; however, her service characterization should reflect "uncharacterized".

Despite a significant amount of effort spent training and providing constructive feedback to the applicant, she failed to satisfactorily perform her duties. The applicant had difficulty

grasping even the most menial tasks, such as how to properly serve food, and she continued to be a negative asset within the unit. As shown in the applicant's training record and her written response, she struggled to adapt to the military environment at every stage of her training and she frequently blamed others for her poor performance. The applicant's failure to progress in training, her lack of aptitude for military service, and her failure to adapt to the military way of life warranted her discharge from the United States Air Force with an entry level separation.

The applicant's DD Form 214 will be administratively corrected to reflect her character of service as "uncharacterized".

The complete DPSOS evaluation is at Exhibit C.

AFPC/DPSOA recommends changing the RE code to reflect 2C. DPSOA states the applicant received an erroneous RE code on her DD Form 214 of "3A". Her correct RE code is 2C (Involuntarily separated with an honorable discharge; or entry level separation without characterization of service); as required by AFI 36-2606, *Reenlistments in the USAF*, chapter 5, based on her entry level separation with uncharacterized character of service. The RE code 2C applies to all entry level separations without characterization of service regardless of whether the discharge is voluntary or involuntary.

AFPC/DPSOY will provide the applicant a corrected copy of her DD Form 214 with a RE code of 2C unless her request for a medical retirement is approved.

The complete DPSOY evaluation is at Exhibit D.

The AFBCMR Medical Consultant recommends denial of the applicant's request for a medical retirement. The AFBCMR Medical Consultant states although certain documents of record indicate that the applicant was hospitalized in July 2011 and was issued a diagnosis of Anxiety Disorder and Adjustment Disorder, the desired evidence, in the form of actual admissions documents, progress notes, or a hospital discharge medical summary, has not been provided for an independent review for consideration in this case.

Nevertheless, while the applicant's reported sexual traumas, and the significant clinical symptoms she disclosed at her Compensation and Pension examination may have been utilized to establish service connection for the post service diagnosis of PTSD, the Medical Consultant found this fact alone insufficient proof to establish unfitness due to PTSD at the time of the applicant's military service or to establish a direct causal relationship with this diagnosis and her multiple duty deficiencies, as would be reflected through profile duty restrictions, AF Form 422, *Physical Profile Serial Report* or AF Form 269, *Duty-Limiting Conditions Report*, prohibiting worldwide

qualification; or service treatment records [none which have been supplied for this review] indicating prescribed treatment for a diagnosable Axis I mental disorder.

The Medical Consultant is fully aware of and sensitive to the public outcry surrounding sexual assaults in the military services. However, the conflicting legal analyses [applicant's attorney who finds the actions of the commander "unconscionable" versus 5 BW/JA, who found the discharge legally sufficient and the alleged rapes unsubstantiated after investigation], demand further review, as a minimum, of the applicant's complete service treatment records. The Medical Consultant must conclude that, except for the post service evidence supplied to the DVA examiners which resulted in the diagnosis of PTSD, the supplied evidence is insufficient to make a retroactive unfit finding, via a *de factor* Medical Evaluation Board, and a medical retirement for PTSD.

The complete BCMR Medical Consultant's evaluation is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 16 and 23 October 2012, copies of the Air Force evaluations were forwarded to the applicant for review and response within 30 days (Exhibit F). As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. The applicant's complete submission was thoroughly reviewed and her contentions were duly noted. However, we do not find the applicant's assertions and the documentation presented in support of her appeal sufficiently persuasive to override the rationale provided by the Air Force offices of primary responsibility (OPRs). We note AFPC/DPSOY will correct the applicant's RE code to reflect "2C" and character of service to reflect "Uncharacterized". We agree with this correction. Therefore, relief beyond that already administratively granted is not warranted.

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of an error or injustice; the application was denied without a personal appearance; and the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered AFBCMR Docket Number BC-2012-00530 in Executive Session on 14 and 23 November 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00530 was considered:

- Exhibit A. DD Form 149, dated 24 January 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSOS, dated 28 March 2012.
- Exhibit D. Letter, AFPC/DPSOA, dated 12 April 2012.
- Exhibit E. Letter, AFBCMR Medical Consultant, dated 16 October 2012.
- Exhibit F. Letters, AFBCMR, dated 16 and 23 October 2012.