



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXXXXXXXXXXXXXXXX

DOCKET NUMBER: BC-2002-00655-2

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request to change his Reentry (RE) code "2C" to permit enlistment in the Air National Guard (ANG).

RESUME OF THE CASE

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

On 19 Feb 03, the Board considered the applicant's request for change of his narrative reason for separation of "Personality Disorder" and RE Code "2C." The Board adopted the AFBCMR Medical Consultant's recommendation and partially granted the applicant's request for a change of his narrative reason for separation. The Board concluded the separation action taken against the applicant was in accordance with applicable instruction; however, the narrative reason improperly labeled the reason for discharge. Further, the narrative reason could be misconstrued to infer his separation was due to a personality disorder instead of maladjustment to military service. Accordingly, the Board recommended his narrative reason for separation be changed to "Secretarial Authority." However, the Board found insufficient evidence to warrant a change to his RE code. The applicant's record showed he experienced problems adjusting to military service and the Board found no evidence he could successfully function in a military environment.

On 3 Apr 03, AFPC/DPPRSP issued the applicant a new DD Form 214, *Certificate of Release or Discharge from Active Duty*, to show he was discharged on 23 Oct 00 with an entry level separation (ELS), uncharacterized character of service, narrative reason for separation of "Secretarial Authority," with corresponding separation designator (SPD) "JFF" and RE code "2C." He served 4 months and 23 days on active duty.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit K.

On 4 Oct 21, the applicant requested reconsideration of his request for change of his RE code. He believes RE code "1M" is the appropriate code. He contends the RE code has caused due process violation. While at technical school he contacted his recruiter for an assignment change but was told he did not know if his assignment could be changed. After a few weeks, he went to see the base psychologist. He went in front of his commander about his discharge so he could go home to be in the ANG. He has been working with the Department of Veterans Affairs (VA) for four years and no one at the ANG had any courage to do anything.

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Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

Since his discharge, he has worked mainly in security and retail. He also worked as a park ranger while living with his grandparents. He enjoyed the work until he was invited to a barbecue. While trying to leave the barbecue he was confronted by a man who had a baseball bat. He acted in self-defense but was arrested at gun point and spent 45 days in jail. In Oct 08, he was also charged with assault and lost his private security job. After his grandmother passed away, he moved back home to and was arrested in 2009 for violating his probation. He did one year in jail and was released from probation in Oct 14. He received therapy from the DVA and received a 70 percent disability rating.

The applicant's complete submission is at Exhibit L.

On 19 Jul 22, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI); however, he has not replied.

APPLICABLE AUTHORITY/GUIDANCE

On 3 Sep 14, the Secretary of Defense issued a memorandum providing guidance to the Military Department Boards for Correction of Military/Naval Records as they carefully consider each petition regarding discharge upgrade requests by veterans claiming PTSD. In addition, time limits to reconsider decisions will be liberally waived for applications covered by this guidance.

On 25 Aug 17, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued clarifying guidance to Discharge Review Boards and Boards for Correction of Military/Naval Records considering requests by veterans for modification of their discharges due in whole or in part to mental health conditions [PTSD, Traumatic Brain Injury (TBI), sexual assault, or sexual harassment]. Liberal consideration will be given to veterans petitioning for discharge relief when the application for relief is based in whole or in part on the aforementioned conditions.

Under Consideration of Mitigating Factors, it is noted that PTSD is not a likely cause of premeditated misconduct. Correction Boards will exercise caution in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with the aforementioned mental health conditions and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

Boards are directed to consider the following main questions when assessing requests due to mental health conditions including PTSD, TBI, sexual assault, or sexual harassment:

- a. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
- b. Did that condition exist/experience occur during military service?
- c. Does that condition or experience actually excuse or mitigate the discharge?
- d. Does that condition or experience outweigh the discharge?

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness issued supplemental guidance to military corrections boards in determining whether relief is warranted based on equity, injustice, or clemency. These standards authorize the board to grant relief in order to ensure fundamental fairness. Clemency refers to relief specifically granted from a criminal sentence and is a part of the broad authority Boards have to ensure fundamental fairness. This guidance applies to more than clemency from sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to

guide Boards in application of their equitable relief authority. Each case will be assessed on its own merits. The relative weight of each principle and whether the principle supports relief in a particular case, are within the sound discretion of each Board. In determining whether to grant relief on the basis of equity, an injustice, or clemency grounds, the Board should refer to the supplemental guidance, paragraphs 6 and 7.

On 19 Jul 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit Q).

AIR FORCE EVALUATION

AFPC/DP2SSM recommends denial. There is no evidence of an error or injustice with the applicant's RE code. The applicant received an entry-level separation (ELS) on 23 Oct 00, with an uncharacterized character of service after serving 4 months and 23 days. His RE code was updated to "2C" (Involuntarily separated with an honorable discharge; or ELS without characterization of service) based on his ELS. The applicant believes his RE code should be "1M" (Eligible to reenlist, second-term or career airman not yet considered under the Selective Reenlistment Program). However, AFI 36-2606, *Reenlistments in the United States Air Force*, states do not separate airmen with a RE code "1M."

The complete advisory opinion is at Exhibit N.

The AFRBA Psychological Advisor finds insufficient evidence to support the request. A review of his records does not corroborate his claims and contentions. He was discharged for an unsuiting mental health condition identified as an adjustment disorder for having difficulties and increased stress from adapting to the military environment. His diagnosis was consistent to his reported symptoms and diagnosis was appropriate and valid based on the clinical presentation at the snapshot in time of service. He was also diagnosed with post-traumatic stress disorder (PTSD) during service but this condition was considered to have existed prior to service (EPTS) and there was no evidence the condition was permanently aggravated by his military service. He claimed to the VA his military service aggravated his stress but there was no clarifying information reported in his records to substantiate his claim. He had a mental health history prior and during service making him disqualified for service and rendering him ineligible to re-enter the service. The applicant did not provide any evidence to support his request and no evidence has been presented to suggest his RE code was improper. Therefore, the Psychological Advisor concurs with the Board's previous opinion.

Liberal consideration is applied to the applicant's request. The following responses to the four questions in the policy are provided:

a. Did the veteran have a condition or experience that may excuse or mitigate the discharge? The applicant contends he experienced increased trauma, doom, and anxiety during technical training that worsened through time. He claimed he was discharged to go into the ANG.

b. Did the condition exist or experience occur during military service? He was diagnosed with and received treatment for an adjustment disorder caused by having difficulties adapting to the military environment during military service. He was also diagnosed with PTSD caused by prior service family traumatic experiences during service.

c. Does the condition or experience excuse or mitigate the discharge? The applicant's mental health condition of an adjustment disorder was considered unsuiting for continued military service and was the cause and reason for his discharge. This diagnosis was found to be valid and appropriate based his reported symptoms in reaction to a situational stressor. In terms of his PTSD

diagnosis, this condition was found to be EPTS with no evidence of service aggravation. Therefore, his mental health condition or experience does not excuse or mitigate his discharge.

d. Does the condition or experience outweigh the discharge? Since the applicant's mental health condition does not excuse or mitigate his discharge, his condition or experience also does not outweigh his original discharge.

The complete advisory opinion is at Exhibit O.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinion to the applicant on 19 Jul 22 for comment (Exhibit P); but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board remains unconvinced the evidence presented demonstrates an error or injustice. The Board concurs with the rationale and recommendations of AFPC/DP2SSM and the BCMR Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was discharged due to his maladjustment to military service and he has provided insufficient evidence to show his RE code "2C" is incorrect as reflected on his DD Form 214. The applicant also did not provide an FBI report or post-service information; however, states he has an arrest record. In this respect, the Board finds the applicant has not provided evidence to show he could successfully function in a military environment or that his request should be granted based on fundamental fairness. Further, the Board considered granting the applicant's request based on liberal consideration; however, the Board finds his mental health condition does not excuse or mitigate the reasons for his discharge to warrant changing his RE code. Therefore, the Board 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

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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 Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.2, considered Docket Number BC-2002-00655-2 in Executive Session on 24 Aug 22:

, Panel Chair
, Panel Member
, Panel Member

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

- Exhibit K: Record of Proceedings, w/ Exhibits A-J, dated 3 Mar 03.
- Exhibit L: Application, DD Form 149, w/atchs, dated 4 Oct 21.
- Exhibit M: Documentary evidence, including relevant excerpts from official records.
- Exhibit N: Advisory Opinion, AFPC/DP2SSM, dated 24 May 22.
- Exhibit O: Advisory Opinion, Psychological Advisor, dated 18 Jul 22.
- Exhibit P: Notification of Advisory, SAF/MRBC to Applicant, dated 19 Jul 22.
- Exhibit Q: Notification of Clemency Bulletin and Clarifying Guidance, dated 19 Jul 22

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.