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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2007-02813-4

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request to have his discharge upgraded to "Honorable" and his narrative reason for separation upgraded from "Misconduct."

RESUME OF THE CASE

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

On 10 Jan 08, the Board considered and denied his requests to have his general (under honorable conditions) discharge upgraded to honorable, his grade restored to staff sergeant (SSgt), his reenlistment eligibility (RE) code changed to a more favorable RE code, his court-martial conviction be overturned, and the Air Force grant him unemployment benefits; finding the applicant had provided insufficient evidence of an error or injustice to justify relief.

For an accounting of the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit I.

On 20 Jun 08, the applicant requested reconsideration of his request. On 7 Aug 08, the Board determined the applicant's request contained essentially the same request that was previously considered and denied by the AFBCMR, and the applicant provided no new relevant evidence, therefore the application did not meet the criteria for reconsideration by the Board (Exhibit J).

On 3 Feb 09, the applicant requested reconsideration of his request. On 23 Apr 10, again, the Board examined his request and concluded that it did not meet the criteria for reconsideration by the Board. Reconsideration is authorized only where newly discovered relevant evidence is presented which was not available when the application was submitted. (Exhibit K).

On 23 Feb 23, the applicant requested reconsideration of his request. He now contends he had post-traumatic stress disorder (PTSD) while in the military. This condition contributed to decisions he made. He was diagnosed after he separated from the military. Since his diagnosis was brought to his attention, he has been in counseling and taking medication. Although he struggles with PTSD, had he been diagnosed sooner, he would have made different decisions. In support of his reconsideration request, the applicant submitted the following new evidence: (1) a statement from a civilian doctor, (2) a Department of Veterans Affairs (DVA) letter showing he is receiving service-connected disability compensation, (3) an associate degree certificate, and (4) several training certificates.

The applicant's complete submission is at Exhibit L.

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POC: SAF.MRBC.Workflow@us.af.mil

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 3 Aug 23, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit M).

AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds insufficient evidence has been presented to support the applicant's request for an upgrade of his discharge and his narrative reason for separation. The applicant began to have complaints of PTSD over 10 years after service and was not formally diagnosed with PTSD until 2022. PTSD symptoms he experienced and endorsed after service included recurring distressing dreams and sleep difficulties, avoiding external reminders, being hypervigilant, having negative beliefs about self and others, feeling distant from others, losing interest, feeling irritable, having exaggerated startled responses, and having poor concentration. There is no evidence he experienced any of these symptoms during service. As stated, his symptoms began after his service from the available records for review and there is no evidence these symptoms existed or occurred during his military service. It appeared he had a delayed onset of PTSD causing him to meet diagnostic criteria for this condition years after discharge. Delayed onset of PTSD is not an uncommon occurrence. His delayed onset or progression of his condition of PTSD was also reflected in his DVA treatment records. He was initially not diagnosed with PTSD because he did not meet all symptoms required of the diagnosis and was functioning well in December 2018. Several years later around 2022-2023, his PTSD symptoms became clearer and more pronounced causing him difficulties and he was formally diagnosed. He did not have

full-blown PTSD in the years preceding his formal diagnosis. To reiterate, it appeared his post service stressors triggered the emergence of his PTSD symptoms as his post service stressors had been the focus of his mental health treatment at the DVA and not his military experiences.

The Psychological Advisor finds there is no error or injustice with the applicant's discharge from service from a mental health standpoint. The available and submitted records did not sufficiently demonstrate his mental health condition was a mitigating factor to his inappropriate behaviors resulting with his special court-martial conviction and eventual discharge from service for the same offenses. Liberal consideration is applied to the applicant's request due to the contention of a mental health condition. The following are responses to the four questions from the Kurta Memorandum from the available records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant contended he had a previous unknown mental health condition of PTSD and this condition contributed to decisions he made. He had been diagnosed with PTSD by his civilian and DVA providers and he had been in counseling and taking medications. Although he struggles with PTSD, had it been diagnosed sooner he believed he would have made different decisions.

2. Did the condition exist or experience occur during military service?
There is no evidence the applicant's mental health condition of PTSD, anxiety, or any other mental health conditions had existed or occurred during his military service. There are no records he received any mental health treatment, evaluation, or diagnosis during service. He was diagnosed with PTSD by his civilian and DVA providers almost 20 years post discharge that was vaguely identified as related to his military experiences.

3. Does the condition or experience actually excuse or mitigate the discharge?
There is no evidence the applicant was in emotional distress or had a mental health condition to include PTSD impairing his judgment when he decided to engage in inappropriate relationship with a trainee on diverse occasions at the time of service. His mental health condition does not excuse or mitigate his discharge.

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

The complete advisory opinion is at Exhibit N.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 12 Aug 23 for comment (Exhibit O), and the applicant replied on 24 Aug 23. In his response, the applicant agrees he was not evaluated/treated for PTSD while serving in the military. He didn't know what the symptoms were, though he knew something was wrong. Mental Health was not something that was discussed and he wouldn't have known how to get treatment even if he had PTSD. Also, he would have been afraid of asking for help as he believed that was a sign of weakness and would hinder his career due to the culture at the time and his upbringing. During his first DVA appointment, he was told by a nurse that she believed he had PTSD. Since being out of the military, two sources determined his PTSD stems from military service. Though his diagnosis is a decade since his military service, it is when he was finally in a position in life to seek help and identify the cause.

The applicant's complete response is at Exhibit P.

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 notes the applicant believes his medical conditions, specifically PTSD, incurred while on active duty. However, the Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Furthermore, the Board applied liberal consideration to the applicant's contention that his PTSD contributed to his decision making, however, does not find the evidence presented sufficient to conclude that his mental health condition mitigates or outweighs his original discharge.
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 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-2007-02813-4 in Executive Session on 20 Dec 23:

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 L: Application, DD Form 149, w/atchs, dated 23 Feb 23.
- Exhibit M: Applicant Notification of Clarifying Guidance (Liberal Consideration), dated 3 Aug 23.
- Exhibit N: Advisory Opinion, AFRBA Psychological Advisor, dated 10 Aug 23.
- Exhibit O: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Aug 23.
- Exhibit P: Applicant's Response, dated 24 Aug 23.

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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.

1/10/2024

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Board Operations Manager, AFBCMR
Signed by: USAF

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