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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-2014-00129

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider his request to upgrade his general (under honorable conditions) discharge to an honorable discharge.

RESUME OF THE CASE

On 21 Oct 14, the Board considered and denied his request to upgrade his general (under honorable conditions) discharge to an honorable discharge, finding the applicant had provided insufficient evidence of an error or injustice to justify relief. Based on the available evidence of record, it appeared the discharge was consistent with the substantive requirements of the discharge authority. The applicant provided no evidence which would lead the Board to believe the characterization of service was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. The Board considered upgrading the applicant's discharge based on clemency; however, was not persuaded an upgrade was warranted.

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 C.

On 14 Jun 23, the applicant requested reconsideration of his request to upgrade his general (under honorable conditions) discharge to an honorable discharge. He contends he developed Post-Traumatic Stress Disorder (PTSD) during his active duty service but did not know it at the time. Additionally, he suffered tremendous stress and quality of life decline which caused him to take actions he did not fully understand during his active duty period. He strongly feels if he had been properly diagnosed at the time of his active service, he would have had a successful military career versus receiving a general discharge. He suffered a period of homelessness and has recently gained appropriate access to a Department of Veterans Affairs (DVA) provider. In support of his reconsideration request, the applicant submitted the following new evidence: DVA summary of benefits letter, dated 30 May 23.

The applicant's complete submission is at Exhibit D.

STATEMENT OF FACTS

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

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On 10 Jul 95, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*. The specific reasons for the action were:

- a. On or about 8 Feb 95, the applicant received punishment under Article 15, Uniform Code of Military Justice, for stealing two compact discs from the Base Exchange.
- b. On 19 Jun 95, the applicant received a letter of reprimand (LOR) for failing to go at the prescribed time to his appointed place of duty.
- c. On 26 Jun 95, the applicant received an LOR for failing to go at the prescribed time to his appointed place of duty.
- d. On 6 Jul 95, the applicant received an LOR for failing to go at the prescribed time to his appointed place of duty on three separate occasions.
- e. On 6 Jul 95, the applicant received an LOR for assaulting his wife.

On 17 Jul 95, the Staff Judge Advocate found the discharge action legally sufficient.

On 19 Jul 95, the discharge authority directed the applicant be discharged with a general (under honorable conditions) service characterization and no opportunity for probation and rehabilitation.

On 24 Jul 95, the applicant received a general (under honorable conditions) discharge. His separation code and corresponding narrative reason for separation is JKN, *Misconduct*. He was credited with one year, three months, and five days of total active service.

POST-SERVICE INFORMATION

On 29 Feb 24, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation; 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, known as the Wilkie Memo, 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 paragraphs 6 and 7 of the Wilkie Memo.

On 29 Feb 24, Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit F).

Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, describes the authorized service characterizations.

Honorable. The quality of the airman's service generally has met Department of the 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.

General (Under Honorable Conditions). If an airman's service has been honest and faithful, this characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the member's military record.

AIR FORCE EVALUATION

AFRBA Psychological Advisor found insufficient evidence to support the applicant's request for the desired change to his records based on his mental health condition. A review of the applicant's objective military records finds no evidence or records he had PTSD or a similar condition during service or that this condition was a contributing factor to his misconduct and subsequent discharge from service. His service treatment records are not available or submitted by the applicant for review. He reported to a DVA provider over 20 years after discharge that he was in an explosion while working on aircraft during service. He may have had a delayed onset of PTSD. The applicant did not identify when this incident occurred and there are no records of this incident documented in any of his available military records. He claims he had undiagnosed PTSD and there is no evidence or records to support this claim. The applicant was diagnosed with PTSD by a DVA provider over 20 years after discharge after he had endorsed PTSD symptoms of nightmares, isolation from others, anhedonia, depressed mood, and anxiety. There is no evidence

or records he experienced any of these symptoms during service. He also vaguely claims his undiagnosed mental health condition caused his actions which he did not fully understand at the time. There is no evidence he had an undiagnosed mental health condition at the time of service. In order to be properly diagnosed, the applicant needed to be evaluated by a duly qualified provider. There is no evidence or records he was evaluated by a mental health provider or that he needed to be command-referred for a mental health evaluation due to his behavioral problems during service. While his contention of having an undiagnosed mental health condition is plausible, the applicant's misconduct of assaulting his wife was an egregious misconduct and serious offense and could not be excused or mitigated even by his mental health condition. Furthermore, his explanation of being late to work due to his wife taking his uniform was not caused by his mental health condition. There were no explanations provided for his remaining misconduct of numerous incidents of failure to go and stealing compact discs from the Base Exchange which also caused his discharge from service. It is possible the applicant's mental health condition did cause some of his failure to go incidents but most of his misconduct, and his more serious misconducts, were found to not have been caused by his mental health condition. The applicant has been service-connected by the DVA, but service connection does not indicate causation or mitigation of his discharge. His contention for this petition and submitted DVA letter are determined to be not compelling or sufficient to support his request for an upgrade based on his mental health condition. There is no evidence of an error or injustice identified with his discharge from a mental health perspective.

Liberal consideration is applied to the applicant's petition due to his contention of having a mental health condition. The following are responses to the four questions from the Kurta Memorandum from the available records for review. It is reminded liberal consideration does not mandate an upgrade per policy guidance.

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The applicant contends he suffered from a tremendous decline in the quality of his mental health which caused him to take actions he did not fully understand during service. He believes if he had been properly diagnosed at the time of service, he would have had a successful military career versus a general discharge.

2. Did that condition exist, or experience occur, during military service?

The applicant's service treatment records are not available or submitted by the applicant for review. From the available records, there is no evidence or records of his mental health condition of PTSD, anxiety, depression, sleep problems, etc. that were reported decades after service had existed or occurred during his military service. He was diagnosed with PTSD by a DVA provider over 20 years after discharge for his traumatic experience of being in an explosion while working on an aircraft. There is no evidence or records his reported traumatic experience had existed or occurred during his military service.

3. Does that condition or experience excuse or mitigate the discharge?

The applicant provided no explanation of when his traumatic experience occurred or the trauma symptoms he experienced during service. There is no evidence his mental health condition caused his numerous misconduct infractions resulting in his subsequent discharge from service. His misconduct of assaulting his wife is determined to be too egregious and could not be excused or mitigated by his mental health condition. It is possible his undiagnosed mental health condition may have caused some of his misconducts of failure to go, but there is no evidence his mental health condition caused most of his misconducts including his most serious acts of misconduct during service. Thus, his mental health condition or traumatic experience does not excuse or mitigate his discharge.

4. Does that condition or experience outweigh the discharge?

Since there was no evidence his mental health condition or traumatic experience may excuse or mitigate his discharge, his mental health condition or experience also does not outweigh his original discharge.

The complete advisory opinion is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 7 May 24 for comment (Exhibit H) 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 opinion of the AFRBA Psychological Advisory there is insufficient evidence the applicant had PTSD or an undiagnosed mental health condition during his military service that was a contributing factor to the misconduct that caused his discharge. Therefore, the Board finds a preponderance of the evidence does not substantiate the applicant's contentions. Additionally, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. Liberal consideration was applied; however, the applicant's mental health condition does not excuse or mitigate his discharge. In the interest of justice, the Board considered upgrading the discharge based on clemency; however, given the evidence presented, the seriousness of the misconduct, and in the absence of post-service information/criminal history provided by the applicant, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's record.

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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2014-00129 in Executive Session on 19 Jul 24:

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 C: Record of Proceedings, w/ Exhibits A-B, dated 21 Oct 14.
- Exhibit D: Application, DD Form 149, w/atchs, dated 14 Jun 23.
- Exhibit E: Documentary evidence, including relevant excerpts from official records.

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Exhibit F: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 29 Feb 24.

Exhibit G: Advisory Opinion, AFRBA Psychological Advisor, dated 1 May 24.

Exhibit H: Notification of Advisory, SAF/MRBC to Applicant, dated 7 May 24.

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.

1/24/2025

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