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

### ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

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DOCKET NUMBER: BC-2016-01117-2

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

The Board reconsidered his request to have his entry level separation (ELS) characterization be changed to honorable.

### RESUME OF THE CASE

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

On 6 Jul 17, the Board considered and denied his request to change his reentry code; finding the prior request was not timely submitted.

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 F.

On 27 Dec 22, the applicant requested reconsideration of his request to have his ELS characterization changed to honorable. He again contends his separation from the Air Force was not due to behavioral issues but due to some emotional issues he was dealing with from a death in the family. He was discharged for his performance being less than satisfactory, but his focus was deterred because of the death. He asked several times to speak to a professional but was not allowed. In support of his reconsideration request, the applicant submitted a death certificate and a Department of Veterans Affairs (DVA) letter showing his service-connected disability compensation. He also submitted documentation to support an additional request to have his name changed in his records.

On 12 Jan 23, the Board staff provided the applicant with instructions on submitting an application for his request to have his name changed in his records (Exhibit H).

The applicant's complete submission is at Exhibit G.

### APPLICABLE AUTHORITY/GUIDANCE

AFBCMR Docket Number BC-2016-01117-2

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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 18 Apr 23, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit N).

AFI 36-3208, *Administrative Separation of Airmen*, dated 9 Jul 04, describes the authorized service characterizations that were applicable at the time of the applicant's separation.

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

**Entry Level Separation.** Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or

- The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

## AIR FORCE EVALUATION

The AFRBA Psychological Advisor reviewed the available records and finds the applicant's contention compelling but not sufficient to support his request to change his ELS characterization. It is comprehensible the applicant had difficulties coping with grief and loss after losing a close relative that may have affected his performance and ability to pass his examinations, but he was afforded opportunities in the forms of being given four hours of Specialized Individual Assistance and was required to attend mandatory study sessions until he was able to pass his test. The applicant submitted a response to his letter of counseling dated 17 Aug 05 for missing mandatory formation or class and explained his difficulties of managing his work and personal stressors. He requested a second chance, which he was given, but he continued to fail his examinations three times thereafter on 12, 14, and 19 Sep 05. He claimed he was denied the opportunity to speak to a professional, presumably referring to a mental health provider about his grief and loss, despite asking multiple times. Although it was possible this situation may have occurred as he asserted, it may also be unlikely. The applicant stated in his response to his letter of counseling (LOC) he attended a dentist appointment, followed by a medical appointment "that took all day," and received several medical examinations. He had opportunities with his medical providers to discuss or report his grief and loss and a referral to the mental health clinic could or would have been made by his medical providers. Also, mental health treatment is voluntarily and so he could have walked into the clinic at any time. Moreover, his inability to pass his examinations reflecting poor performance in part caused by his grief and loss and work stress would suggest he had difficulties adjusting to his situational stressors. His adjustment issues would be considered as unsuiting for continued military service and would result in the same ELS discharge and service characterization.

Liberal consideration is applied to the applicant's request. The following are responses to the four questions from the Kurta Memorandum based on information presented in the records:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?  
The applicant contends his separation from the Air Force was not due to behavioral issues, but due to some emotional issues he was dealing with from a loss. He was separated for his performance being less than satisfactory, but his focus was deterred because he had a death in the family.
2. Did the condition exist or experience occur during military service?  
There is evidence the applicant had experienced the loss of a close relative occurring during his military service. This was evidenced by his report of a death of a family member in response to his LOC dated 17 Aug 05 and he submitted a death certificate coinciding with this time in service to substantiate his report.
3. Does the condition or experience excuse or mitigate the discharge?

There is evidence the applicant reported he was affected by the loss/death of a family member in addition to his work stressors during basic training, affecting his performance of passing his examinations and attending study sessions. The applicant was given numerous opportunities and assistance to improve his performance, but he was not amenable to those efforts. His inability to improve his performance by passing his examinations in part caused by his grief and loss would suggest he had difficulties adjusting to his situational stressor. His adjustment issues would be considered unsuited for continued military service and would result in the same ELS discharge and uncharacterized character of service he had received. Therefore, his mental health condition or grief and loss experience does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition or grief and loss experience does not excuse or mitigate his discharge, his condition and experience also does not outweigh his original discharge.

The complete advisory opinion is at Exhibit I.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 8 Feb 23 for comment (Exhibit J), and the applicant replied on 22 Mar 23. In his response, the applicant contends it was acknowledged he had a death in the family while in training, and he could not properly focus, yet states he was afforded opportunities to speak to a counselor at his leisure, which is untrue. He never turned down any study time and disagrees with the number of tests he is accused of failing. Finally, his instructors were aware of his situation and were very empathetic to him.

The applicant's complete response is at Exhibit K.

### **ADDITIONAL AIR FORCE EVALUATION**

AFPC/DP2SSR recommends denying the applicant's request to change his character of service to honorable. Airmen are in entry level status during the first 180 days of continuous active military service. The Department of Defense (DoD) determined if a member served less than 180 days continuous active service, it would be unfair to the member and the service to characterize their limited service. Based on review of the applicant's request, there is no error or injustice with the discharge processing.

The complete advisory opinion is at Exhibit L.

The Board sent a copy of the advisory opinion to the applicant on 18 Apr 23 for comment (Exhibit M) 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/or the recommendation of the AFRBA Psychological Advisor and AFPC/DP2SSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. Airmen are given an entry level separation with uncharacterized service when they fail to complete a minimum of 180 days of continuous active military service and the applicant only served 5 months and 12 days of active service, therefore, the type of separation and character of service are correct as indicated on his DD Form 214. Due to the applicant's contention of mental anguish, the Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request. Even if the applicant had a mental health condition, this would not change the characterization of his discharge as the Board finds no unusual circumstances of personal conduct and performance of military duty to warrant an honorable discharge. Therefore, the Board recommends against correcting the applicant's records.

## **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-2016-01117-2 in Executive Session on 25 Oct 23:

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Panel Chair

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, Panel Member

Panel Member

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

- Exhibit F: Record of Proceedings, w/ Exhibits A-E, dated 6 Jul 17.
- Exhibit G: Application, DD Form 149, w/atchs, dated 27 Dec 22 and 22 Mar 23.
- Exhibit H: Letter (Name Change), SAF/MRBC to Applicant, dated 12 Jan 23.
- Exhibit I: Advisory Opinion, AFRBA Psychological Advisor, dated 2 Feb 23.
- Exhibit J: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Feb 23.
- Exhibit K: Applicant's Response, dated 4 Apr 23.
- Exhibit L: Advisory Opinion, AFPC/DP2SSR, dated 18 Apr 23.
- Exhibit M: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Apr 23.
- Exhibit N: Letter (Liberal Consideration), SAF/MRBC to Applicant, dated 18 Apr 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.

12/12/2024

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Board Operations Manager, AFBCMR

Signed by: Work-Product

**AFBCMR Docket Number BC-2016-01117-2**

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