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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-2017-00030-2

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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 honorable.

**RESUME OF THE CASE**

The applicant is a retired Air Force senior airman (E-4).

On 9 Aug 18, the Board considered and denied his request to upgrade his general (under honorable conditions) discharge to honorable; finding the applicant was not a victim of an error or injustice. The Board determined the discharge appeared to be 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. In the interest of justice, the Board considered upgrading the discharge based on clemency; however, in the absence of post-service information, the Board found no basis to do so.

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 D.

On 7 Dec 22, the applicant requested reconsideration to upgrade his general (under honorable conditions) discharge to honorable. He contends he should have received an honorable discharge. On his application he checked Post-Traumatic Stress Disorder (PTSD), other mental health, and sexual assault/harassment. In support of his reconsideration request, the applicant submitted the following new evidence: (1) FBI report indicating he has had some criminal activity since his discharge; and (2) State of **Work-Product** Real Estate License.

The applicant’s complete submission is at Exhibit E.

**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 discharge **es due in by role in bin**

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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 (USD P&R) 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 paragraphs 6 and 7 of the Wilkie Memorandum.

On 6 Feb 23, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit E).

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

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for reconsideration of his request to upgrade his general (under honorable conditions) discharge to honorable. There is no

documentation of any anxiety, depression, or other mental health condition or disorder reported in any of his available military records. He also did not submit any records showing he had any mental health concerns in service nor did he provide an explanation for how his mental health condition caused his behaviors and subsequent discharge. The majority of his misconduct was found to not have been caused by his mental health condition. The applicant began receiving mental health treatment over 20 years after he was discharged from service and was diagnosed with post-traumatic stress disorder (PTSD). There is no evidence or reports his PTSD was caused by or related to his military service. His substance abuse problems were developed post-service and there is no evidence he had any alcohol problems or he engaged in any alcohol related incidents during service.

The AFRBA Psychological Advisor finds no error or injustice with the applicant's discharge from a mental health standpoint. Liberal consideration is applied to the applicant's petition due to his designation of a mental health condition and sexual assault/harassment experiences on his application to the AFBCMR. 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 should have received an Honorable discharge when he separated from the military. He marked "PTSD," "Other Mental Health," and "Sexual Assault/Harassment" on his application to the AFBCMR and did not provide any clarifying information about how these conditions or experiences may cause, excuse, or mitigate his discharge.

2. Did the condition exist or experience occur during military service?  
The applicant's full service treatment records are not available for review. There is no evidence his mental health condition of PTSD, other mental health condition, or sexual assault/harassment experiences had existed or occurred during his military service. He was diagnosed with PTSD by his DVA provider due to his childhood abuse. He developed PTSD symptoms, depression, anxiety, and substance abuse problems after he was discharged from service caused by his prior and post-service stressors.

3. Does the condition or experience actually excuse or mitigate the discharge?  
The applicant was discharged from service for engaging in a pattern of misconduct. His statement in response to his discharge action at the time of service revealed he denied engaging in most of the misconduct and/or was unaware of his expired vehicle registration. He alluded to having personal problems that may have caused his substandard performance and financial problems, but the majority of his misconduct were found to not have been caused by his mental health condition. Therefore, his mental health condition or experience does not excuse or mitigate his discharge.

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

The complete advisory opinion is at Exhibit F.

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

The Board sent a copy of the advisory opinion to the applicant on 30 Jun 23 for comment (Exhibit G), 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 and concurs with the rationale of the AFRBA Psychological Advisor finding the evidence presented is not sufficient to overturn the previous Board’s decision. The Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant’s request. The applicant did not provide any evidence or records to substantiate his claim a mental health condition in service caused his misconduct, thus his condition does not mitigate or excuse his discharge. The burden of proof is placed on the applicant to submit evidence to support his claim. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, the Board finds no basis to do so. The applicant has provided an FBI report indicating he has had some criminal activity since his 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-2017-00030-2 in Executive Session on 25 Oct 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 D: Record of Proceedings, w/ Exhibits A-C, dated 9 Sep 18.
- Exhibit E: Application, DD Form 149, w/atchs, dated 7 Dec 22.
- Exhibit F: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 6 Feb 23.
- Exhibit G: Advisory Opinion, AFRBA Psychological Advisor, 20 Jun 23.
- Exhibit H: Notification of Advisory, SAF/MRBC to Applicant, dated 30 Jun 23.

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.

3/18/2024

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Board Operations Manager, AFBCMR

Signed by: *Work-Product*