

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01117

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His official military personnel record be amended to reflect a medical discharge.

APPLICANT'S CONTENTIONS

He believes he should have been medically discharged from the military. He was having mental issues that he did not know or understand he had. He had been treated for insomnia and depression while in the Air Force. He made his share of mistakes, but he was not aware he suffered from paranoid schizophrenia and depression, which has been diagnosed by the Veterans Administration (VA). He did not know how to cope with what was happening and did not know what was causing his issues. Had his mother not stepped in, he is sure he would not be here today as he did not want to live anymore.

He has been seeing the VA from 2015 through 2020. He has been unable to finish any paperwork to get this done in the past few years because he did not know where to begin and he still does not know if it is correct. The VA started his paperwork in 2015 but did not complete it because he was not a veteran. He does not know how to seek help as he socially distances himself from others fearing they can hear his thoughts or know what he is going through. He has been suffering from this and believes his issues began in the military.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 4 Mar 13, 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*, paragraphs 5.50.1. and 5.54., with an under other than honorable conditions (UOTHC) service characterization. The specific reasons for the action were:

a. On 24 Jan 13, the applicant was found guilty in a Special Court-Martial for the following misconduct:

(1) On or about 24 Nov 12, he failed to go at the time prescribed to his appointed place of duty.

(2) On or about 11 Dec 12, he failed to go at the time prescribed to his appointed place of duty.

(3) Between on or about 1 Oct 12 and on or about 31 Oct 12, he failed to obey a lawful general regulation, by wrongfully using a controlled substance analogue commonly referred to as "Spice."

(4) Between on or about 20 Nov 12 and on or about 21 Nov 12, he violated USFJ Command Policy on Curfew, by wrongfully failing to be on a United States military installation or in an off-installation private residence during the restricted hours of 2300 to 0500.

(5) Between on or about 23 Nov 12 and on or about 24 Nov 12, he violated USFJ Command Policy on Curfew, by wrongfully failing to be on a United States military installation or in an off-installation private residence during the restricted hours of 2300 to 0500.

(6) On or about 24 Nov 12, he made a false official statement, to wit: "We knew about the curfew and had to stay at an airman's friend's house" or words to that effect, which was known to him to be false.

(7) On or about 24 Nov 12, he made a false official statement, to wit: "The first time I left base during my restriction was 23 Nov 12" or words to that effect, which was known to him to be false.

(8) Between on or about 23 Nov 12 and on or about 24 Nov 12, he broke his restriction.

(9) On or about 20 Nov 12, he broke his restriction.

b. On or about 10 Oct 12, he failed to go at the time prescribed to his appointed place of duty. In addition, on or about 10 Oct 12, he was found sleeping while posted as a sentinel. For this misconduct, he received an Article 15, dated 22 Oct 12.

c. On or about 28 Sep 12, he failed to go at the time prescribed to his appointed place of duty. For this misconduct, he received a Letter of Reprimand, dated 29 Sep 12.

In an undated memorandum, the Staff Judge Advocate found the discharge action legally sufficient.

On 29 Mar 13, the discharge authority directed the applicant be discharged pursuant to the provisions of AFI 36-3208, for the primary basis under paragraph 5.50.1., *Pattern of Misconduct: Discreditable Involvement with Military or Civil Authorities*, and a secondary basis under paragraph 5.54., *Drug Abuse*, with a UOTHC service characterization. The applicant was not eligible for probation and rehabilitation, and it was not considered.

On 1 Apr 13, according to DD Form 2697, *Report of Medical Assessment*, provided by the applicant, he annotated his intent to seek Department of Veterans Affairs (DVA) disability for mental illness. Health care provider comments reflect the applicant's history of adjustment disorder with anxiety and depressed mood followed by a clinical psychologist and previously prescribed Zoloft; no other medical illness. The purpose of the assessment was the applicant's separation, and he was not referred for further evaluation.

On 23 Apr 13, the applicant received a UOTHC discharge. His narrative reason for separation is "Pattern of Misconduct" and he was credited with 1 year, 3 months, and 11 days of total active service, with lost time during the period 24 Jan 13 – 29 Mar 13.

On 22 Jul 13, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 10 Jan 14, the AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process.

On 17 Nov 14, according to Discharge Summary, provided by the applicant, he was admitted and discharged from the hospital with a diagnosis of schizophrenia.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit E.

AIR FORCE EVALUATION

AFRBA Psychological Advisor finds insufficient evidence to support the applicant's request for medical discharge.

While the applicant was treated by Mental Health during his military service, there is insufficient evidence to support he was not fit for service. Additionally, there is insufficient evidence he exhibited symptoms of schizophrenia or met diagnostic criteria for schizophrenia.

During his time in the military, the applicant was continually determined to be fit for duty. When he was seen by Mental Health and was diagnosed with an occupational problem and adjustment disorder, it was determined he was able to perform his job without limitations, he was able to deploy, he was medically cleared, and he was released without any limitations. His evaluation at discharge determined he was cleared for separation, and he did not require a Medical Evaluation Board (MEB). The applicant himself denied he had any conditions that limited his ability to work in his primary military specialty (*Report of Medical Assessment*). His military mental health records clearly document the absence of any perceptual disturbance. They noted:

- His thoughts were logical and coherent.
- He had no delusions.
- His judgment was intact.
- He denied having symptoms of mania or psychosis.
- No evidence of a thought disorder.

His separation examination noted he had no anxiety, no emotional lability, no depression, no sleep disturbances, and no decreased functioning ability, with normal affect and euthymic mood. He was cleared for separation.

The applicant was diagnosed with paranoid schizophrenia after his military discharge. His note from 17 Nov 14 specifically mentions he started hearing voices in Oct 13, six months after his military separation. The provider additionally mentions that while his previous symptoms may be prodromal signs of schizophrenia, this is compounded by the applicant's Spice usage. The applicant used Spice during his military service and was disciplined for it. The applicant, in a self-authored statement (undated), admitted to continuing to use drugs and alcohol after his military service. While there is no evidence he met the criteria for schizophrenia in service, his Spice and drug usage may be contributing factors to his current diagnosis. Common side effects of Spice usage include extreme anxiety, paranoia, suicidal thoughts, and psychosis.

The applicant contends his pattern of misconduct began after his mental health symptoms began. The applicant, on his application to the AFDRB, reported his stress began after he received an Article 15. It is possible his anxiety, stress, and insomnia, which were present during his military service, were caused in part by being disciplined for misconduct.

This psychological advisor concludes there is insufficient evidence the applicant was suffering from paranoid schizophrenia during his military service. Additionally, there is insufficient evidence he was unfit for service during his military service or at discharge from a psychological perspective. The military's Disability Evaluation System, established to maintain a fit and vital fighting force, can by law, under Title 10, United States Code (U.S.C.), only offer compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on post-service progression of disease or injury.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 29 Feb 24 for comment (Exhibit F) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was diagnosed with paranoid schizophrenia post-service. While he was treated by mental health providers during his military service, there is no evidence he was unfit for continued service from a psychological perspective. Additionally, the applicant was medically cleared for separation, and there was no evidence of a condition requiring referral to an MEB. Finally, liberal consideration guidance was reviewed but not applied as fitness determination/medical discharge/medical retirement requests are not covered under this policy. Therefore, the board recommends against correcting the applicant's records. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.
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 application was not timely filed; it would not be in the interest of justice to excuse the delay; 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, paragraph 2.1, considered Docket Number BC-2023-01117 in Executive Session on 18 Jun 24:

, Panel Chair
, Panel Member
, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 17 Apr 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 21 Jun 23.

Exhibit D: FBI Report, dated, 29 Jun 23.

Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 27 Feb 24.

Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Feb 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.

X

Board Operations Manager, AFBCMR