



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02933

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her general (under honorable conditions) discharge be upgraded to honorable.

APPLICANT'S CONTENTIONS

After she returned from [REDACTED], she was having mental health issues she was not fully aware of and has been service-connected for these issues by the Department of Veterans Affairs (DVA). She believes if not for her mental health issues, she would not have been in the situation she was in to begin with to be discharged and if she had not been mentally unstable, she would have had a different outcome.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 28 Feb 07, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFPD 36-32, *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.50.2 for conduct prejudicial to good order and discipline. The specific reasons for the action were:

- a. On or about 19 Sep 06, she failed to obey a lawful order to appear in service dress. For this offense, she received a Letter of Counseling (LOC), dated 5 Oct 06.
- b. On or about 29 Sep 06, she was involved in a vehicle accident. She was apprehended by the [REDACTED] Police Department for driving while intoxicated. Results of the breathalyzer test revealed a blood alcohol content (BAC) of .151. For this offense, she received a Letter of Reprimand (LOR), dated 4 Oct 06.

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[REDACTED]

c. On or about 15 Nov 06, she failed to report to appointed place of duty on time. For this offense, she received an LOC, dated 15 Nov 06.

d. On or about 1 Dec 06, she was derelict in the performance of duties in willfully failed to fill out pregnancy disclaimer labels for five patients. For this offense, she received an LOR, dated 6 Dec 06.

e. On 19 Dec 06, the applicant received nonjudicial punishment (NJP) Article 15 for underage drinking on several occasions and failing to refrain from using her government travel card (GTC) for official use.

On 1 Mar 07, the Staff Judge Advocate found the discharge action legally sufficient.

On 8 Mar 07, the discharge authority directed the applicant be discharged with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 14 Mar 07, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct (Other)" and she was credited with 4 years and 9 months of total active service.

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

POST-SERVICE INFORMATION

On 14 Mar 24, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI); however, she 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 Post-Traumatic Stress Disorder (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.

[REDACTED]

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 14 Mar 24, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

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 Air Force Review Boards Agency (AFRBA) Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for the desired changes to her record. A review of the available records finds the applicant's contentions were partially corroborated by her military records. There is evidence the applicant was deployed to Iraq as evidenced by her enlisted performance report (EPR) for the rating period of 16 Jan 06 to 15 Jan 07 reporting she was deployed to [REDACTED] in support of Operation Iraqi Freedom (OIF) and Global War on Terrorism (GWOT); however, the actual dates she was deployed to Iraq was not identified in her available records. The applicant's service treatment records were devoid of any substantive information, most likely because this was the time frame when the military transitioned from paper records to electronic health records (EHR), and not all information was transferred to the new system. The paper records were not available or submitted by the applicant for review. Despite the absence of robust information about her presenting problems, mental health condition, care, and treatment timeline in relation to her deployment to Iraq, there are some records of her presenting problems, and the applicant also provided some information to her DVA providers that could mitigate the gaps in information. She was initially seen at the emergency room (ER) at Joint Base [REDACTED] on 14 Feb 06 for relationship problems and was seen an additional three times at the mental health clinic (MHC) after her ER visit from 16 Feb 06 to 2 Mar 06. She received diagnoses of major depressive disorder (MDD), adjustment disorder with depressed mood, and partner relational problems from these visits and not much is known about the onset and causes of these conditions. About over a year after she was discharged from the Air Force, she reported to her psychiatrist at the DVA on 3 Dec 08, she met with a psychiatrist during service because she was having marital problems and was prescribed Prozac, which is an anti-depressant medication, for which she did not benefit from its effect. Interestingly, she also reported she stopped taking this medication because she went to Iraq, indicating she had mental health concerns and received treatment prior to her deployment which occurred sometime in 2006 according to her reports. Her account of her treatment to her DVA psychiatrist matches the treatment she received for her marital problems and the diagnoses she was given by her military provider from Feb 06 to Mar 06. Her marital problems, depression, and adjustment issues had predated her deployment so her deployment could not have caused these problems.

The applicant received an evaluation from the Substance Abuse Clinic on 2 Oct 06 presumably related to her driving under the influence (DUI) because of the proximity of this evaluation to her DUI, which had occurred a few days prior on or about 29 Sep 06. She was entered into the Level 1 treatment program suggesting she had more serious problems with alcohol and needed more intensive treatment versus an education class for a first-time alcohol-related incident. Her records showed she received a diagnosis of Alcohol Abuse. Her treatment notes did not report the reason(s) for her alcohol use or DUI and her treatment did occur after she returned from deployment and may possibly be related to her deployment experiences. Nevertheless, the applicant informed her DVA providers her DUI was because she was "in the wrong place at the wrong time" and it was a "one-time thing" to denote her DUI was a one-time incident and not a

serious or recurring problem. There are no records she used alcohol to cope with her mental health condition during service.

The applicant was diagnosed with various mental health disorders by the DVA after service. These disorders or conditions included adjustment disorder with depressed mood, MDD, depressive disorder unspecified, generalized anxiety disorder (GAD), anxiety disorder unspecified, panic disorder, insomnia disorder, tobacco use disorder, and alcohol abuse. Some conditions such as adjustment disorder, MDD, and alcohol abuse had existed during service, but most and the remaining conditions had begun or developed after her military service such as GAD, anxiety disorder, panic disorder, and insomnia disorder. She reported sustaining a traumatic brain injury (TBI) to her DVA provider from hitting her head against a desk when picking up an object when she was deployed but no evidence or records she had a TBI during service or she had any long-lasting or lingering effects from her TBI that affected her cognitive functioning during service. She endorsed symptoms of crying spells, irritability, anger, distractibility, anxiety, panic-like symptoms with hyperventilation, sleep disturbances, and neurovegetative symptoms of depression. Again, there are no records any of these symptoms had existed or occurred during her military service. She marked PTSD on her application to the AFBCMR and there are no records she was diagnosed with this condition by a duly qualified mental health provider during or after service. She had screened positive for PTSD when she met with an Operation Enduring Freedom (OEF)/OIF social worker (SW) case manager at the DVA in Nov 08. A screening tool is used to assist with diagnostic clarification but is not used as the only method to derive a diagnosis. She was assessed over the years by numerous DVA mental health providers and none of them gave her a diagnosis of PTSD. She was given a rule out of PTSD to suggest she had symptoms of this condition, but not enough symptoms were present to meet the diagnostic criteria for PTSD. This diagnosis was never confirmed by her DVA providers. There is no evidence she had PTSD or symptoms of this condition during service. Regardless of a confirmed diagnosis of PTSD, she received other diagnoses such as adjustment disorder, anxiety disorder, panic disorder, etc. that were developed from or related to her deployment experiences.

The available records find no evidence or records the applicant's mental health condition had a direct impact or was a contributing factor to her discharge. There is no evidence or records she was in emotional distress or had PTSD or a similar condition impairing her judgment at the time of any of her documented misconduct. In addition to her DUI, the applicant was discharged for failing to obey a lawful order to appear in service dress uniform, failing to report to her appointed place of duty on time, failing to fill out pregnancy disclaimer for patients, failing to refrain from drinking when ordered to do so and having knowledge of this order, and failed to refrain from using her GTC. The applicant primarily discussed her DUI with her DVA providers and did not address her other acts of misconduct. Hypothetically even if it was accepted she drank alcohol to cope with her mental health condition developed from her deployment experiences that led to her DUI, her DUI could not be excused by her mental health condition. In addition to driving while intoxicated, she was involved in a vehicle accident and had to be apprehended. Alcohol may have impaired her judgment, but her behaviors and reaction to the incident were serious and egregious and could not be disregarded. Her behaviors could have hurt someone and worse, could have been fatal. Her explanation she was "in the wrong place at the wrong time" caused her DUI to her DVA

[REDACTED]

provider does not mitigate this serious offense. The applicant had provided a couple of statements at the time of service to explain some of her behaviors. She claimed she was unaware she was working at the front desk which caused her to be late for duty, admitted she was aware of a lawful order issued to her to refrain from drinking alcohol and proceeded to drink with her friend anyway (there is no evidence or records she was in emotional distress when she drank beer that she claimed she did not finish), and she misused her GTC because she was intoxicated that night, may have mixed up her GTC with her debit card because they have the same pin number, and was not paying attention. None of these explanations provided demonstrated a nexus had existed between these acts of misconduct and her mental health condition. Lastly, it appeared the applicant had misconduct problems in the past that were not included in her Notification Memorandum and had predated her deployment. Her EPR for the rating period from 16 Jan 04 to 15 Jan 05 reported she was persistently late for work, missed formation, received numerous LOCs and LORs, and was unable to pay her debts. These behavioral and misconduct problems existed before her deployment and she had the same or similar problems after she returned from her deployment. There is no evidence or records these similar behavioral or misconduct problems had increased in severity or frequency after her deployment sans her DUI. Thus, it could not be determined definitively it was her deployment experiences that caused her behavioral problems as she contended leading to her discharge from the Air Force. She contends she had received service-connected disability from the DVA for her mental health condition and service connection does not propose mitigation or causation. The DVA, operating under Title 38, U.S.C., is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon the applicant's fitness to serve, the narrative reason for release from service, or the length time transpired since the date of discharge. The Psychological Advisor finds the applicant's personal testimony for this petition not compelling nor sufficient to support her request for an upgrade of her discharge based on her mental health condition. Therefore, the Psychological Advisor finds there is no error or injustice identified with her discharge from a mental health perspective.

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 in the policy based on the available records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant marked "PTSD" and "OTHER MENTAL HEALTH" on her application to the AFBCMR and vaguely contends she had mental health issues after she returned from Iraq she was not fully aware of and had she not been mentally unstable at the time, things would have had a completely different outcome.

2. Did the condition exist or experience occur during military service?
There is evidence and records the applicant was deployed to [REDACTED] sometime in 2006. There is, however, no evidence or records the applicant's mental health condition of PTSD developed from her deployment experiences had existed or occurred during her military service. She was never diagnosed with this condition during or after service. There is no evidence or records she had or experienced PTSD or a similar condition during service. Her service treatment records were

[REDACTED]

devoid of any robust information about her condition and care, but there are records she was given diagnoses of MDD, adjustment disorder with depressed mood, partner relational problem, and alcohol abuse during service. She had most of these conditions prior to her deployment and could not be related to her deployment experiences. She was prescribed Fluoxetine or Prozac, an anti-depressant medication, prior to and after her deployment. She participated in the Level 1 outpatient substance abuse treatment program following her DUI. She was diagnosed with GAD, anxiety disorder, panic disorder, and insomnia disorder by her DVA providers. There is no evidence or records she had any of these conditions during service and most likely developed them after service and/or from her post-service stressors. She reported sustaining a TBI to her DVA provider from hitting her head against a desk when picking up an object when she was deployed but no evidence or records she had a TBI during service or she had any long-lasting or lingering effects from her TBI affecting her cognitive functioning.

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

There is no evidence or records the applicant's mental health condition including PTSD had caused or was a contributing factor to her acts of misconduct resulting in her discharge. There is no evidence or records she was in emotional distress or had PTSD or a similar condition impairing her judgment at the time of any of her documented misconduct. Her behaviors surrounding her DUI were found to be serious and could not be excused by her mental health condition. Her mental health condition or experience does not excuse or mitigate her discharge.

4. Does the condition or experience outweigh the discharge?

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

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 27 Mar 24 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all discharge upgrade requests under fundamental fairness or clemency are technically untimely. However, it would be illogical to deny a discharge upgrade application as untimely, since the Board typically looks for over 15 years of good conduct post-service. Therefore, the Board declines to assert the three-year limitation period established by 10 U.S.C. § 1552(b).

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. It appears the discharge was consistent with the substantive requirements of the

[REDACTED]

[REDACTED]

discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. Furthermore, 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. Specifically, the Board finds no evidence the applicant used alcohol to cope with a mental health condition or that her mental health condition impaired her judgement at the time of her misconduct during service. Her DUI is considered egregious and is not excused or mitigated by a mental health condition. Nonetheless, liberal consideration was applied to the applicant's request due to the contention of a mental health condition; however, since there is no evidence her mental health condition or deployment in Iraq had a direct impact on her behaviors and misconduct resulting with her discharge, her condition or experience does not excuse, mitigate, or outweigh her discharge. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision. The applicant may provide post-service evidence depicting her current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization based on fundamental fairness.

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-2023-02933 in Executive Session on 18 Jun 24:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

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

- Exhibit A: Application, DD Form 149, dated 22 Aug 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 14 Mar 24.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 19 Mar 24.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Mar 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.

4/30/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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