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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01965

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

His service has been characterized by dedication, hard work, and a commitment to upholding the values and principles of the armed forces. Despite the circumstances which led to his discharge, he believes his overall service record merits a more favorable distinction. At the time of his service, the environment heavily endorsed and normalized the consumption of alcohol. In a quest to assimilate and conform, he succumbed to the allure of heavy drinking. Consequently, this pattern of behavior led to the revelation he was grappling with alcoholism, a realization which came to a significant cost to his conduct, which subsequently led to his discharge. After decades of sobriety, he asks for an upgrade.

In support of his request for a discharge upgrade, the applicant provides a personal statement and a business bio.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 21 Oct 83, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*, paragraph 5-47b for a pattern of misconduct. The specific reasons for the action were:

- a. On 26 Apr 83, a Memorandum for Record (MFR) advised the applicant his base driving privileges were pending revocation due to the refusal to submit to a breathalyzer test.

AFBCMR Docket Number BC-2024-01965

Wor... Work-Product

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b. On 29 Apr 83, an AF Form 3070, *Notification of Intent to Impose Nonjudicial Punishment*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for operating a vehicle while drunk, and in a reckless manner by going 60 miles per hour in a 45 mile per hour zone on or about 22 Apr 83. The applicant was ordered to forfeit \$50.00 pay per month, for two months.

c. On 13 May 83, an MFR informed the applicant's commander of the results of a mental health evaluation. He was diagnosed with borderline personality disorder. The diagnosis constituted a character and behavior disorder, and it was recommended to be delt with administratively.

d. On 14 Oct 83, an AF Form 3070 indicates the applicant received NJP, Article 15 for stealing property from another, of value of \$275.00. The applicant received a reduction to the grade of airman basic (E-1) and forfeiture of \$100.00 pay per month for two months.

On 27 Oct 83, the Staff Judge Advocate found the discharge action legally sufficient.

On 1 Nov 83, the discharge authority directed the applicant be discharged for a pattern of misconduct, with a general (under honorable conditions) service characterization.

On 4 Nov 83, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct – Pattern Conduct Prejudicial to Good Order and Discipline" and he was credited with 10 months and 27 days of total active service.

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

POST-SERVICE INFORMATION

On 13 Feb 25, the Board sent the applicant a standard request for post-service information. This letter informed the applicant that a Federal Bureau of Investigation (FBI) background check would assist the Board in evaluating his case. Although the applicant did reply to the request for post-service information (Exhibit D), his response did not include an FBI background check or other criminal history data. In the applicant's response, he provided information on reviews for his business and also indicated he has received background checks for the various licenses he has obtained.

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 13 Feb 25, 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 AFRBA Psychological Advisor finds insufficient evidence to support the applicant's request based on his mental health condition. The applicant was discharged from service for his refusal to submit to a breathalyzer test, driving while intoxicated (DWI), having an unsuiting personality disorder identified as borderline personality disorder (BPD), and personal theft of an amplifier. Only two of these reasons for his discharge were alcohol-related. The applicant contended in his petition he had alcohol issues stemming from his need to assimilate and conform to the prevailing drinking culture in the Air Force which caused his misconduct, but his response to his Article 15 submitted at the time of service, discussed a different reason and scenario. In his response to his Article 15 for receiving a DWI, he claimed he only drank two beers at his friend's barracks and nothing before this time, denied he was drunk or intoxicated, believed he passed his field sobriety test, was unaware he was speeding because his panel fuse blew causing the lights in his car to go out, and the security police (SP) may have thought he was driving recklessly because he was trying to reach under his dash to find out what caused the lights to go out. He briefly and vaguely discussed his refusal to submit to a breathalyzer in his response but did not offer a clear explanation for why he refused to submit to a breathalyzer. It is possible his refusal was due to the fact that he did have alcohol on his breath since he did have at least two beers prior to operating his vehicle, but this is speculation. His past and present reports are inconsistent. The applicant most likely had problems with alcohol, but alcohol issues are an unsuiting condition for military service. His alcohol problems may explain his behaviors but do not excuse or his mitigate any of the misconduct. Besides having alcohol issues, there is no evidence he used alcohol to cope with having a mental health condition such as anxiety or depression. He reported during his separation physical examination with his primary care manager (PCM) he had nervous trouble and depression since May 83 due to job related problems. His DWI and refusal to submit to a breathalyzer test occurred in Apr 83, which was one month before he reported these symptoms began. His nervous trouble (anxiety) and depression were secondary to or were developed in response to his work related problems of receiving an Article 15 caused by the consequences of his own misconduct. There is no evidence he had nervous trouble and/or depression at the time of his misconduct which caused him to receive a DWI and his refusal to submit to a breathalyzer test.

There is actually no clear evidence the applicant had alcohol dependency or addiction problems during service. There was an entry into his service treatment records made by a clinical psychologist on 7 Jun 83 reporting a rehabilitation meeting was held on this date and he was a non-entry into the program. A non-entry into the program would indicate he did not have any alcohol problems, or his alcohol problems were not severe enough for him to meet the criteria to enter into

a rehabilitation program. While it is possible he had alcohol issues as he contended, there are no records he received any alcohol or substance use disorder diagnoses during service. He also did not receive treatment for any alcohol issues.

The applicant was diagnosed with BPD by a psychiatrist who was also the chief of mental health services during service. He was referred to a mental health evaluation by his supervisor because of his complaints of being dissatisfied with the service, and he had engaged in self-destructive behaviors such as banging his head and driving staples into his hand the day before the evaluation. His BPD diagnosis was derived from psychological testing and a thorough clinical interview. The psychiatrist cited he had a long history of emotional lability, he had engaged in self-harming and self-destructive behaviors before and during service, he had previous suicidal thoughts and attempted suicide before entering the Air Force when he crashed his brother's car and got on the roof of a high building and intended to jump, suicidal rumination, feelings of emptiness, impulsivity, and lack of commitment to long-term goals which form the basis of his BPD diagnosis. His diagnosis of BPD appeared to be valid and appropriate based on this history and clinical presentation. There is no evidence he was misdiagnosed with BPD. He had traits of BPD, especially suicidal thoughts and attempts before he entered the service which he did not report during his enlistment process, which would have rendered him disqualified for military service and could be considered as fraudulent entry. There is no evidence his military service permanently aggravated his prior service mental health condition and problems. Like alcohol issues, BPD is an unsuiting mental health condition for military service, and while it may explain some of his impulsive and maladaptive behavioral problems, this unsuiting condition does not excuse or mitigate his discharge.

The applicant did not address his misconduct of personal theft in his petition or at the time of service which also caused his discharge. This misconduct could have been caused by his BPD due to traits of impulsivity but does not excuse or mitigate his misconduct. There is no evidence this misconduct was caused by his alcohol problems, and he was not reported to be intoxicated at the time of this misconduct.

From an extensive review of the applicant's available records, this psychological advisor finds no error or injustice with his discharge from a mental health perspective. The applicant had unsuiting mental health conditions of alcohol issues and BPD which may have caused some of his misconduct but do not excuse or mitigate his discharge.

LIBERAL CONSIDERATION: Liberal consideration is applied to the applicant's request due to his contention of having alcohol issues during service. It is reminded, liberal consideration does not mandate an upgrade or a change to the records per policy guidance. The following are responses to the four questions from the Kurta Memorandum from the information presented in his records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant contended at the time of his service, the environment within the base where he was stationed heavily endorsed and normalized the consumption of alcohol. In his quest to assimilate

and conform to the prevailing culture, he regrettably succumbed to the allure of heavy drinking. His behavioral pattern led to the revelation he was grappling with alcoholism which came at a significant cost to his conduct and discharge with a general (under honorable conditions). He submitted no medical records for review but submitted copies of his professional licenses.

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

The applicant was referred to a mental health evaluation during service and was diagnosed with BPD. The psychiatrist cited he had a long history of emotional liability, had engaged in self-harming and self-destructive behaviors before and during service, such as banging his head during periods of frustration and driving staples into his hand, had suicidal thoughts and attempted suicide before the Air Force when he crashed his brother's car and got on the roof of a high building and intended to jump, suicidal rumination, feelings of emptiness, impulsivity, and lack of commitment to long-term goals. His condition and/or traits of BPD had existed before he entered the Air Force, and no evidence it was aggravated by his military service. There is no clear evidence the applicant had alcohol dependency or addiction problems during service as contended. An entry into his service treatment records made by a clinical psychologist on 7 Jun 83 reported a rehabilitation meeting was held on this date and he was a non-entry into the program. There are no records he received any alcohol or substance use disorder diagnosis or treatment during service. Lastly, the applicant reported during his separation physical examination with his PCM he had nervous trouble and depression since May 83 due to job-related problems. His DWI and refusal to submit to a breathalyzer test occurred in Apr 83, which was one month before he reported these symptoms began. His nervous trouble (anxiety) and depression were secondary to or were developed in response to his work-related problems of receiving an Article 15 caused by the consequences of his own misconduct.

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

While it is possible the applicant had alcohol issues during service, this is an unsuiting mental health condition for military service which may have contributed to his DWI and refusal to submit to a breathalyzer test but does not excuse or mitigate these behaviors. There is no evidence he used alcohol to cope with having a mental health condition like anxiety or depression. There is no evidence he was anxious (nervous trouble) or depressed at the time of these offenses. His mental health condition of BPD is also an unsuiting mental health condition for military service. This condition may have caused some of his maladaptive behavioral problems but also does not excuse or mitigate his discharge. Therefore, his mental health condition does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate his discharge, his condition also does not outweigh his 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 25 Apr 25 for comment (Exhibit F) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed but the untimeliness is waived because it is in the interest of justice to do so. Therefore, the Board declines to assert the three-year limitation period established by 10 U.S.C. Section 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. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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's BPD and possible alcohol issues during service are unsuiting conditions for military service. These conditions may explain some of his behaviors and misconduct, but they do not mitigate or excuse his discharge. Furthermore, there is no evidence he used alcohol to cope with a mental health condition and there is no evidence he was anxious or depressed during the time of the misconduct. Therefore, his contended mental health condition does not excuse or mitigate his discharge. Additionally, the applicant has provided no evidence which would lead the Board to believe his service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. Nonetheless, 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 a criminal history report, the Board finds no basis to do so. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness; however, the applicant did not provide sufficient evidence to show he has made a successful post-service transition. The evidence he provides lacks references that demonstrate his character and service to the community. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision, which could be in the form of a criminal history background check, a personal statement, character statements, and/or testimonials from community leaders/members specifically describing how his efforts in the community have impacted others. Should the applicant provide documentation pertaining to his post-service accomplishments and activities, this Board would be willing to review the materials for possible reconsideration of his request based on fundamental fairness.
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.

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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-2024-01965 in Executive Session on 18 Jul 25:

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 A: Application, DD Form 149, w/atchs, dated 29 May 24.
- 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 13 Feb 25.
- Exhibit D: Applicant's Response, dated 27 Feb 25.
- Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 31 Mar 25.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Apr 25.

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.

7/23/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2024-01965

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