



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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-02511

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

**APPLICANT'S REQUEST**

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. His narrative reason for separation be changed.

**APPLICANT'S CONTENTIONS**

He was told that after two years from discharge, he would be eligible to have his discharge changed from under honorable conditions (general), to honorable.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 24 Jan 03, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15, on diverse occasions between on or about 1 Dec 02 and on or about 7 Jan 03, with intent to deceive, for making an official statement, he was married or words to that effect, which was totally false, and known by him to be false. He also did on or about 5 Dec 02, with intent to deceive, sign an official record on Department of Defense Form 93, *Record of Emergency Data*, which was false in that he was not married as indicated in block 4a, and this was known to him to be false. He was reduced to the grade of airman (E-2) suspended until 23 Jul 03, forfeiture of \$150.00 pay per month for 2 months, base restriction for 30 days, 15 days extra duty and a reprimand.

On 27 Feb 03, AF Form 366, *Record of Proceedings of Vacation of Suspended Nonjudicial Punishment*, indicates the applicant violated one or more of the conditions of his suspension by failing to go at the time prescribed to his appointed place of duty without authority. His suspended punishment above was vacated and he was reduced to the grade of airman (E-2).

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[REDACTED]

On 31 Mar 03, AF Form 3070, indicates the applicant received NJP, Article 15, on about 16 Mar 03, for sleeping while on post as a sentinel. He was reduced to the grade of airman basic (E-1), base restriction for 45 days and a reprimand.

On 8 May 03, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with 10 months, and 14 days 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 1 Aug 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, he 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.

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:

- [REDACTED]
- [REDACTED]
- 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 1 Aug 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 AFRBA Psychological Advisor completed a review of all available records and found there was no evidence or records his mental health condition including PTSD, or any other mental health condition had a direct impact or was a contributing factor to his documented misconduct and/or discharge. The applicant did not clarify his mental health condition of PTSD or his other mental health condition, how he developed these conditions, or how these conditions caused his discharge. His service treatment records are not available for review so there are no records to confirm he was ever diagnosed with PTSD or any other mental disorders by a duly qualified mental health provider during service or in his lifetime. The applicant's discharge paperwork is also not available for review so the detailed reasons for his discharge for misconduct are presently unknown. His

[REDACTED]

available records reflected he received at least three Article 15s for falsely reporting he was married, failing to go at the time prescribed to his appointed place of duty, and sleeping on his post. It is possible he had other disciplinary actions and misconducts cumulating to his discharge reason for misconduct. There is no evidence his mental health condition caused any of the misconducts documented in his Article 15s, and no evidence he had a mental health condition or was in emotional distress impairing his judgment causing him to engage in these misconducts. For his first Article 15, he had the intent to deceive by falsely claiming and reporting he was married, and this act would be considered a premeditated behavior. Premeditative behaviors require deliberate thought and planning and are not impulsive acts so this behavior could not be caused or excused by his mental health condition. It appeared he knew what he was doing at the time. Since his discharge paperwork is unavailable for review, it could not be determined if his mental health condition would excuse or mitigate his discharge. The presumption of regularity is applied in this situation, and there is no error or injustice with his discharge from a mental health perspective. The burden of proof is placed on the applicant to submit the necessary records to support his request. Thus, his request for an upgrade of his discharge and change his narrative for separation based on his mental health condition is not supported.

Liberal consideration is applied to the applicant's petition due to his contention of having a mental health condition. It is reminded that liberal consideration does not mandate an upgrade per policy guidance. The following are responses to the four questions from the Kurta Memorandum from the information presented in the 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 his application to the AFBCMR and contended he was told, after two years from discharge, he would be eligible to have his discharge changed. He did not provide any other clarifying information about his condition of PTSD, his traumatic experience during service, when he was diagnosed with this condition, and did not identify his other mental health condition. He did not discuss how his mental health may excuse or mitigate his discharge.

2. Did the condition exist or experience occur during military service?  
The applicant's service treatment records are not available or submitted by the applicant for review. There are no records he received any mental health evaluation, treatment, or mental disorder diagnosis including PTSD or any other mental health conditions during service. There is no evidence or records his mental health condition of PTSD or any other conditions had existed or occurred during his military service.

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, or any other conditions had a direct impact or was a contributing factor to his discharge. His discharge paperwork is not available for review, so the presumption of regularity is applied and there is no error or injustice identified with his discharge. Therefore, his mental health condition does not excuse or mitigate his discharge.

[REDACTED]

4. Does the condition or experience outweigh the discharge?

Since his 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 D.

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

The Board sent a copy of the advisory opinion to the applicant on 1 Oct 24 for comment (Exhibit E) 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. 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 finds the discharge was 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. Furthermore, 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 as the Board finds no evidence the applicant was diagnosed with a mental health disorder during service. 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 his mental health condition had a direct impact on his behaviors and misconduct resulting with his discharge, his condition or experience does not excuse, mitigate, or outweigh his 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 his current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization due to 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.

[REDACTED]

## 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-2024-02511 in Executive Session on 16 Apr 25:

[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, w/atchs, dated 16 Jul 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF MRBC, (Post-Service Request and Liberal Consideration Guidance), dated 1 Aug 24.
- Exhibit D: Advisory, AFRBA Psychological Advisor, dated 17 Oct 24.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Oct 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.

4/29/2025

X [REDACTED]

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[REDACTED]  
Board Operations Manager, AFBCMR  
Signed by: USAF