

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2018-02303

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, and service records be corrected to reflect the most accurate representation of his mental health diagnoses.

### APPLICANT'S CONTENTIONS

He was underdiagnosed, misdiagnosed and discharged with a personality disorder; however, after years of evaluations and treatments he learned he had a combination of mental conditions, including major depressive disorder and bipolar disorder with suicidal intent and ideation, anxiety condition and panic attack.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 22 May 01, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*. The specific reason for the action was Chapter 5, Section B, Involuntary Convenience of the Government, Paragraph 5.11, Conditions that Interfere with Military Service, specifically, Paragraph 5.11.1, under Mental Disorders.

On 25 May 01, the Staff Judge Advocate found the discharge action legally sufficient.

On 29 May 01, the discharge authority directed the applicant be discharged for Mental Disorders with and an "uncharacterized" service characterization.

On 1 Jun 01, the applicant received an uncharacterized entry level separation. His narrative reason for separation is "Personality Disorder" and he was credited with one month of total active service.

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

### 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 15 Jun 21, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

#### **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 the desired changes to his records. However, because of an error identified with the narrative reason of "Personality Disorder" on his current DD Form 214, the AFRBA Psychological Advisor recommends partially granting the application. The applicant is requesting to change his narrative reason for discharge to reflect the diagnoses he was given several years post-service. There was no evidence the applicant displayed or met diagnostic criteria for any of the conditions of Bipolar Disorder, Major Depressive Disorder, that were annotated in his post-service treatment records. The applicant was only in the Air Force for one month and these conditions may take several years to develop. There was no evidence his post-service mental health conditions were caused or aggravated by his military service. His post treatment records reported they were caused and triggered by his post-service stressors. There was no evidence he had any unfitting mental health condition during service that would meet criteria for a medical discharge. Therefore, his request could not be supported. However, the psychological advisor recommends the Board change his narrative reason for discharge to "Condition Not A Disability" to reflect the correct reason for discharge due to an identifiable error with his DD Form 214. Changing his narrative reason to the correct condition of "Adjustment Disorder" may potentially make the applicant's situation worse due to confidentiality issues. This narrative reason of "Condition Not A Disability" would accurately reflect his unsuited condition while maintaining his privacy.

Liberal consideration was applied to the applicant's request due to the applicant's contention of a mental health condition. The following are responses based on information presented in the records to the four pertinent questions in the policy:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?  
The applicant contends he was underdiagnosed and misdiagnosed during service and his narrative

reason for separation should be corrected to the diagnoses such as Bipolar Disorder, Major Depressive he was given post-service.

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

There is no evidence the applicant exhibited or experienced any of the conditions he was diagnosed with several years post-service to include Bipolar Disorder, Major Depressive Disorder, during service. The applicant was given a diagnosis of Adjustment Disorder with Depressed Mood and this diagnosis was found to be valid and appropriate based on his reported symptoms functioning during service. There was no evidence he was given any Personality Disorders in service.

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

The applicant's Adjustment Disorder not Personality Disorder was the cause and reason for his discharge. Both conditions result with an administrative discharge and so his administrative discharge would remain the same. There was no evidence he had any unfitting mental health conditions meeting criteria for a medical discharge. His mental health condition or experience does not excuse or mitigate the discharge.

4. Does the condition or experience outweighs the discharge?

There is no error identified with the applicant's administrative discharge; his condition or experience 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 28 Jan 22 for comment (Exhibit E) but has received no response.

#### **FINDINGS AND CONCLUSION**

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.

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 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 substantiates the applicant's contentions in part. The Board notes the applicant was not discharged for having a Personality Disorder but for an Adjustment Disorder. Therefore, in order to correct the identifiable error on the applicant's DD Form 214, *Certificate of Release or Discharge from Active Duty*, the Board recommends the applicant's Narrative Reason for Separation be changed to "Condition Not A Disability." However, for the remainder of the applicant's request, the evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant's request. Further, the Board is satisfied that the application of liberal consideration does not warrant relief. Therefore, the Board recommends correcting the applicant's records as indicated below.

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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued in conjunction with his 1 June 2001 discharge, be amended to read “Condition Not A Disability” in Block 28, *Narrative Reason for Separation*.

However, regarding the remainder of the applicant’s request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

### **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2018-02303 in Executive Session on 21 Mar 22:

- , Panel Chair
- , Panel Member
- , Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 9 Jun 18 and 7 Sep 18.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Applicant Notification of Clarifying Guidance, dated 15 Jun 21.
- Exhibit D: Advisory opinion, AFRBA Psychological Advisor, dated 12 Aug 21.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 28 Jan 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.