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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2019-04637

XXXXXXXXXX

**COUNSEL:** XXXXXXXXXXXXXXXX

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

1. His active duty service commitment (ADSC) be waived
2. The debt he incurred while attending the United States Air Force Academy (USAFA) be waived.
3. His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be corrected to show he was medically separated (Additional request, see Exhibit G).

**APPLICANT'S CONTENTIONS**

He was wrongfully found in violation of the USAFA honor code for plagiarism. The process was flawed and biased against him as he was coerced into admitting plagiarism wrongdoing. When he tried to appeal the decision, he was deprived of adequate and fair due process, disenrolled, and denied a commission despite years of commitment with no violations, positive recommendations for retention, Secretary of the Air Force (SECAF) approval to be commissioned through other avenues, and his detachment commander's willingness to bring him into the Air Force Reserve Officer Training Corps (AFROTC).

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former USAFA cadet.

Dated 19 Sep 18, USAFA Form O-299, *Air Officers Commanding (AOC) Evaluation of Cadet*, provided by the applicant, indicates that on 21 Aug 18, he was found in violation by his peers during a Wing Honor Board for cheating with a recommendation of disenrollment. The AOC recommended assessment with probation noting the following, "[applicant] and his behavior prior to our last meeting indicate an unwillingness to recognize his failure. However, as his AOC I now believe that [the applicant] can in fact be rehabilitated if we allow him the opportunity. I believe this incident has revealed pride to be major flaw in [the applicant's] character however I think he now has the willingness and understanding required to grow, learn and one day serve as an officer. On the basis that I strongly believe he can now be

rehabilitated.” The Cadet Commander concurred with the recommendation but the Commandant of Cadets and the Vice Commandant of Cadets recommended disenrollment.

Dated 11 Feb 19, DD Form 785, *Record of Disenrollment from Officer Candidate-Type Training*, provided by the applicant, indicates he was disenrolled from the USAFA, effective 18 Jan 19. The reason for his disenrollment was involuntary due to violating the Cadet Wing Honor Code for cheating. Section IV, block 2 (recommended as an average candidate) is checked, with the following remark, “[Applicant] will receive an honorable characterization and he has incurred a two-year ADSC for his time at the USAFA.”

On 18 Jan 19, according to DD Form 214, the applicant was honorably discharged in the grade of second lieutenant (O-1). His separation code and corresponding narrative reason for separation is JFF (Secretarial Authority) and he was credited with 3 years, 6 months, and 24 days of active duty.

Dated 26 Jun 19, AFROTC Form 22, *Cadet Personnel Action Request*, provided by the applicant, indicates he requested an AFROTC enrollment allocation (EA) waiver. On 11 Aug 19, his request was denied by the AFROTC Commander stating “He was disenrolled from the USAFA for not abiding by the same honor code expected of AFROTC Cadets.”

For more information, see the excerpt of the applicant’s record at Exhibit B and the advisories at Exhibits C and H.

#### **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 (USD P&R) issued supplemental guidance 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 the supplemental guidance, paragraphs 6 and 7.

On 21 Jun 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit J).

## **AIR FORCE EVALUATION**

USAFA/JA recommends denying the applicant's request to waive his ADSC and recoupment of his debt. The USAFA cannot direct or dictate any disenrolled USAFA cadets be allowed to transfer to a ROTC program. The ROTC leadership has made their own independent call to not allow the applicant to contract with and join a ROTC unit. The applicant realized the benefit of being able to transfer his credits earned at USAFA to his civilian university; he should not receive the benefit of that bargain without any consideration. The applicant should be expected to repay the government for what was invested in him at the USAFA with training and education through vice.

DODI 1322.22, *Service Academies*, paragraph 6, discusses the different means on how a disenrolled USAFA cadet can fulfill their ADSC. The Superintendent, as the disenrollment authority, makes the final decision to disenroll the cadet and makes a recommendation to the SECAF as to whether the cadet should be called to serve in an enlisted capacity to reimburse the government, should be afforded an educational delay to seek an AFROTC commission, if the cadet should reimburse the government monetarily, or if a waiver of the ADSC should be granted. The cadet is afforded an opportunity to submit written matters along with the Superintendent's recommendation on the collateral consequences of his disenrollment to be considered by the SECAF, the final authority concerning the collateral consequences. The recommendation of the Superintendent to either support enlisted service, support an educational delay for AFROTC, or to recommend the cadet monetarily reimburse the government is based

upon the Superintendent's assessment that the cadet either does or does not have the aptitude to successfully serve in an enlisted capacity. In this case, the USAFA Superintendent did find that the applicant could fulfill his ADSC by serving enlisted and it was ultimately determined by the SECAF that an educational delay to afford the applicant the opportunity to contract with a ROTC detachment was appropriate in this case. The applicant, unable to find a ROTC detachment to contract with, now is requesting a waiver of his ADSC so he does not have to serve enlisted. It is not a question of what the cadet desires, nor is it the cadet's choice. The applicant was provided every opportunity to submit written matters with his position on collateral consequences along with the Superintendent's recommendation to the SECAF to consider when making that decision. The USAFA/JA assessment of the applicant's arguments show there is not a specific reason why waiver of the ADSC should be granted. The applicant's honor case was processed per the Honor Code Reference handbook and unless there are substantiated reasons why the applicant should not serve enlisted, he should be ordered to enlisted active duty service. The applicant should not be relieved of his enlisted ADSC he incurred while a USAFA cadet receiving training and education with United States taxpayer dollars. The applicant will still be able to use his undergraduate education and training to apply to Officer Training School (OTS) after his enlisted service should he still desire to become a commissioned officer.

The applicant makes several arguments as to why he feels he was wrongfully found in violation of the Honor Code and how he was denied due process. The applicant's case followed proper procedure and review for an honor case and the following steps were followed before the applicant was recommended for disenrollment and ultimately disenrolled by the USAFA Superintendent. First, the cheating allegation was reviewed by the applicant's Philosophy instructor along with other members of the Philosophy department to assess whether the applicant's case could be explained and excused. The professors' concerns regarding the cheating were not addressed satisfactorily after the applicant's clarification so the case was investigated by the honor division staff. That investigation was conducted with oversight from a JAG at the USAFA Department of Law to ensure legal sufficiency and due process. Next, the applicant's case was reviewed by two honor officers, with an additional review by a Field Grade Officer (FGO), who all concluded the evidence indicated that the applicant plagiarized and that the case should move forward to a Wing Honor Board. Then a panel of nine cadets reviewed all of the evidence, listened to all of the witness testimony, and by a two-thirds majority, found that beyond a reasonable doubt, the applicant had plagiarized by intentionally trying to pass off someone else's work as his own. On 16 Oct 18, before either the Commandant of Cadets or the USAFA Superintendent received the case to take their action, a legal review was drafted to ensure due process and legal sufficiency. The USAFA/JA legal review did not find any evidence that the applicant was coerced into admitting anything. Further, when the Commandant of Cadets met with the applicant, they did not find that the personal appearance with the Commandant of Cadets was "excruciatingly long." They reached out to individuals who were present for the applicant's personal appearance with the Commandant of Cadets and no one recalled it lasting more than one hour. That is in fact a typical length for a cadet personal appearance meeting and the meeting is ultimately an additional opportunity for the cadet to make their case on why they should be retained in person rather than simply relying on a paper case review. The bottom line is that the applicant failed to overcome the presumptive sanction of disenrollment with his written matters and his personal appearance, and that is what led to her recommendation for disenrollment. The Commandant of Cadets did not find that the applicant

took ownership of his honor violation to establish that he could be rehabilitated and she found all indications pointing toward the applicant having made a deliberate attempt to deceive his Philosophy instructor into thinking the work he submitted was his own. The USAFA Superintendent, who does not always meet with USAFA cadets before their disenrollment, took the time to meet not just with the applicant, but with fellow cadets advocating on behalf of the applicant, the applicant's professional ethics advisor, the applicant's honor mentor, and the applicant's Area Defense Counsel (ADC). Each of these representatives presenting to the USAFA Superintendent on behalf of the applicant, had the chance to attest to the applicant's character and raise any concerns with the honor process that led to the applicant's disenrollment package being before the USAFA Superintendent for action. This was an additional measure of appeal the applicant was not entitled to, but was granted. While the applicant alleges the decision was already made by the USAFA Superintendent at that point, USAFA/JA can assure you the three star general did not take a large portion of his valuable time to meet with all of these advocates of the applicant without fully considering their inputs and properly deliberating on the appropriate action to take in the applicant's case. Further, it is important to note that none of the cadets involved in the honor process make any disenrollment decisions, but rather only recommendations. In fact, even the USAFA Commandant of Cadets as a one-star general, only makes a disenrollment recommendation. The only person with cadet disenrollment authority at USAFA is the Superintendent.

There are some additional points of misinformation in the applicant's AFBCMR submissions that need to be addressed. First, the applicant alleges that cadets "self-selected onto the Wing Honor Board." This is simply not true. Cadets are randomly selected by the student information system to serve as Wing Honor Board panel members. Each of the randomly selected cadets goes through a voir dire process before serving as a panel member and the applicant was afforded an opportunity to challenge any of the cadets he felt could not be impartial and fair. The applicant also alleges his Wing Honor Board was "speedy" and that the board therefore did not review the evidence properly. The officer mentor, one of USAFA's most experienced FGO with over five years of having held various positions within the honor division over that time, was in the room with the cadet panel as they deliberated and provided feedback to the honor division staff that the cadets were very thorough in their review of the evidence and in their deliberations. While the case evidence file was 140 pages, 48 of those pages were a copy of the paper the applicant copied from, with the copied portions highlighted, with another 42 of the pages being a copy of the plagiarism report generated by the SafeAssign program. Of the 32 page paper turned in by the applicant's group, only seven pages were written by the applicant. While complete documents were included in the evidence package, only a small number of pages in the case evidence file were relevant to the plagiarism. Furthermore, the applicant's allegation regarding free pizza is out of context as any time the cadet dining facility may close before the Wing Honor Board deliberations are complete, pizza is often provided so the cadets do not feel rushed to finish deliberations or feel the need to take an extended recess to depart for the dining facility in order to avoid missing dinner. The applicant also makes some accusations about his interactions with the Deputy Chief of the Honor Division and their discussion about appeal. The Deputy Chief of the Honor Division properly cited the appeal section of the Honor Code handbook and the requirement of "new evidence" to reconvene a Wing Honor Board. However, based on their discussion, it did not appear the applicant had any "new evidence," but rather he simply wanted to debate the definitions of cheating and plagiarism that had already been presented at the Wing

Honor Board. The Honor Division personnel counseled the applicant on how to petition for a new Wing Honor Board if there was new evidence, but the applicant did not submit anything for consideration as new evidence. Further, the Deputy Chief of the Honor Division stated there was not anything "new" that would have qualified as "new evidence" in the course of their conversation. Finally, the applicant misinterprets the Honor Code handbook when he alleges that cadets are penalized for second guessing outcomes. The passage from the handbook the applicant is misinterpreting is directed toward observers of a Wing Honor Board, other cadets and permanent party at USAFA, who are instructed not to question/second guess the outcomes of honor cases they do not agree with, in the interests of protecting the Wing Honor Board panel members from potential retribution.

The basis for the applicant's disenrollment and discharge, which also resulted in the applicant's educational delay and now order for enlisted service in fulfillment of his ADSC for the cost of his academy education, stems from an honor violation for having cheated by plagiarizing approximately one-third of his portion of a group project in Philosophy 310. The Wing Honor Board, the Commandant of Cadets, and the USAFA Superintendent agreed the applicant's honor allegations for having cheated contained merit and they found disenrollment to be the appropriate course of action. The Superintendent, as the disenrollment authority, makes the final decision to disenroll the cadet for honor violations and decides whether to recommend the cadet be called to serve in an enlisted capacity to fulfill their ADSC, be recommended for an educational delay, or if the cadet should reimburse the government monetarily. The applicant was afforded an opportunity to appeal to the SECAF, the final authority concerning the collateral consequences. The decision of the SECAF to grant the applicant an educational delay to seek an ROTC commission through a civilian university is based upon the Superintendent's recommendation and the Superintendent's disenrollment action that resulted from the applicant's honor infraction. Ultimately, the USAFA Superintendent determined the applicant had the aptitude to successfully serve in an enlisted capacity, and the SECAF felt the applicant could be afforded a chance at an ROTC commission which would revert back to enlisted service if the applicant was unable to contract with an ROTC detachment.

The complete advisory opinion is at Exhibit C.

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

The Board sent a copy of the advisory opinion to the applicant on 18 Feb 20 for comment (Exhibit D), and the applicant replied on 17 Mar 20 asking for his case to be closed until his newly obtained counsel could properly prepare his case (Exhibit E). His case was administratively closed on 19 Mar 20 (Exhibit F). On 30 Jun 21, the applicant's counsel submitted a request to reopen his case. In his response, the applicant's counsel contends he was improperly and unjustly discharged from the Air Force after his disenrollment from the USAFA was approved and finalized upon the recommendations of the Commandant of Cadets and the Vice Commandant of Cadets. The applicant was coerced into admitting plagiarism and his appeal was held against him. He admitted he failed to properly cite references but had no intent to deceive. The disenrollment action was not only procedurally deficient, but the decision both to force this case to the board and to disregard recommendations to place him on probation in order to effectuate the disenrollment was predicated on systemic racism.

He suffered from anxiety and depression and is unfit for entry into active duty, a determination that should have been made prior to his discharge from the USAFA and which should have resulted in a medical discharge. While as a cadet at the USAFA, he sought mental health treatment for anxiety and depression caused by his academic performance issues and these issues were worsened by the treatment he was forced into receiving. Since his release from the USAFA, he continues to struggle with anxiety and depression and there is evidence that supports his contention that he suffered from major depressive disorder (MDD) as opposed to an adjustment disorder. He continues to receive treatment for his mental health issues originating from his time at the USAFA and his suicidal ideation and depression have been exacerbated by his extremely stressful experience involving his disenrollment and subsequent denial into an AFROTC detachment. He has not had a period of mental stability since 2017 and possibly since 2015, when he voiced having morbid ideation. If his mental health providers properly followed his condition, after a year, they would have found his condition was not stable and he would have been subject to a Medical Evaluation Board (MEB) rather than academic disenrollment.

The applicant's complete response is at Exhibit G.

#### **ADDITIONAL 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 record. The applicant did receive brief mental health treatment during his time at USAFA initially for depression caused by his family stress and then for anxiety and depression caused by his stressors and feelings that he was not excelling militarily, athletically, and academically as compared to his peers, even though his thoughts were refuted by the assessment of his AOC. He had endorsed having morbid and suicidal ideation and due to these thoughts, he was placed on the high interest list (HIL). He was monitored weekly through safety checks by a team of mental health providers and each time they were able to communicate with him, albeit there were times he was unreachable, he had denied having any safety concerns and reported doing well. It is to note the applicant was not forced into receiving mental health treatment as claimed and because of his increased safety risk derived from his endorsement of having suicidal thoughts, he received weekly monitoring and safety checks as this is standard operating procedure according to AFI 44-172, *Medical Operations-Mental Health*. In fact, when he met with a psychotherapy provider on 12 Jan 18, he was agitated and somewhat uncooperative with the provider and chose to not continue meeting this provider and opted to meet with his psychiatrist. If the applicant was "forced" to receive treatment, he would not have this choice and he actually stopped attending treatment by his own volition. He was seen twice by a military psychiatrist and was prescribed Wellbutrin, which he had voluntarily elected not to use. During these two appointments, he reported having improved mood especially since he was able to see his family over the holiday break. His mood continued to improve after he had returned from the holiday break and thus, his psychiatrist opined his clinical presentation and symptoms better aligned to an adjustment disorder versus MDD. When his situational stressors had been removed, his depressive symptoms to include suicidal thoughts had also dissipated. The Psychological Advisor finds the change in his diagnosis to adjustment disorder from MDD was appropriate based on the rationale provided. Also, because of his improved mood and he had not endorsed

having any suicidal ideation in at least four weeks indicating his condition was stable, he was removed from the HIL, which is another appropriate procedure. The applicant was reported by his psychiatrist that his prognosis was “good” and “excellent” respectively, he was not placed on any duty limiting restrictions because of his mental health condition, and he did not require an MEB or an administrative discharge due to his mental health condition. The applicant’s legal counsel also claimed his mental health condition caused by his academic performance issues worsen by the treatment he was forced to receive. As indicated by his records, this claim could not be substantiated by his objective service treatment records as his condition was reported to have improved and no evidence his condition had worsen with treatment. His treatment was terminated due to his stability and improved mood and the applicant did not return to treatment after this time. Based on the collective information presented, the applicant did not have any unfitting mental health conditions meeting criteria to be referred to the MEB for a medical discharge. Receiving a mental disorder diagnosis and mental health treatment does not automatically make a condition as unfitting condition as more markers are required to be present to meet the criteria, which he did not meet. Furthermore, since he has determined to be stable and no longer needed treatment, he was actually determined to be fit for duty. The applicant’s mental health treatment and issues had predated his allegations of plagiarism. According to the available records, the applicant had denied any wrongdoing and denied he intentionally plagiarized. From this information, there was no evidence his mental health condition caused his behaviors/misconduct and subsequent disenrollment from USAFA. He was reported to have experienced the exacerbation of his anxiety and depression caused by the aftermath of his misconduct and legal issues with the Air Force. His emotional reaction to his stressful situation is not uncommon and rather could be expected. His legal counsel contends, should his providers follow him for a year, they would find he was not stable and should have received an MEB. This opinion is without merit and this suggested procedure is not appropriate. Again, the applicant was appropriately removed from the HIL after he had demonstrated mental stability. There was no reason for his providers to follow him for an additional year after he was determined to be stable with no safety concerns and the applicant was also resistance to the safety check process. Hypothetically if his providers did follow him for a year, his mental health condition of anxiety and depression would still not have met criteria for an MEB because his condition was exacerbated and caused by his own misconduct and it would be considered a situational stressor or adjustment disorder. His adjustment disorder would be acute and not chronic and would be an unsuited condition meeting criteria for an administrative discharge and not medical discharge. Again, there was no evidence he had any unfitting mental health conditions for an MEB.

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 and his legal counsel contend his mental health condition of anxiety and depression were not stable and he should have received an MEB/medical discharge.
2. Did the condition exist or experience occur during military service?  
There was evidence the applicant received mental health treatment during service for depression caused by family stress in Jul 15 and anxiety, depression, and suicidal ideation caused by



military, athletic, and academic issues from Dec 17 to Jan 18. He was initially given a diagnosis of MDD that was later changed to Adjustment Disorder with Depressed Mood by his treating psychiatrist based on his reported symptoms in response to his situational stressors during his time as a cadet at USAFA.

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

The applicant's mental health condition was reported to have been improved and stabilized as evidenced by his repeated reports of doing well, his symptoms have resolved, and he did not have any suicidal thoughts for at least four weeks. He was removed from the HIL and his treatment was terminated as a result. There was no evidence he had any unfitting mental health conditions that would meet criteria to be referred to the MEB for a medical discharge and so his mental health condition does not excuse or mitigate his discharge.

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 H.

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

The Board sent a copy of the advisory opinion to the applicant on 21 Jun 22 for comment (Exhibit I), and the applicant replied on 19 Jul 22 and again on 28 Jul 22. In his response, the applicant's counsel contends the advisory opinion clearly states he was experiencing suicidal ideations as early as 2015 and continued to struggle with anxiety until he was released from the academy but, until the date of his release, he was actively seeking retention at the academy, which in his mind, required him to prove that he was no longer suffering from any mental health issues and could overcome the honor violation. The advisory opines that the applicant was fine and no longer needed treatment, which is false and contradictory to the evidence presented. The incorrect diagnosis of adjustment disorder makes it abundantly clear that the USAFA clinic failed at every stage of the applicant's case. In 2017, he was diagnosed with MDD based on his two plus years of depression and his documented history of suicidal ideations. When his condition was downgraded to adjustment disorder, it neglected the continuous nature of his symptoms and instead focused only on his formal seeking of mental health care.

The advisory opinion makes further assumptions regarding the applicant's placement on the HIL stating this was voluntary. HIL procedures require patients to be evaluated weekly and per AFI 44-172, HIL patients require a treatment plan, which therefore requires some treatment to occur. The applicant was only on the HIL for 54 days of which no less than 24 days were unaccounted for. No effort was made to contact him every week nor did he display a picture of stability to be removed.

The Board should apply liberal consideration to the applicant's petition, disregard the AFRBA psychological advisory opinion and grant the applicant's requests.

The applicant's complete response is at Exhibit J.

## **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. The applicant's complete submission was thoroughly reviewed and his contentions were duly noted. However, the Board does not find the applicant's assertions and the documentation submitted in support of his appeal sufficiently persuasive to override the rationale provided by USAFA/JA. Specifically, no evidence has been presented that convinces the Board the applicant's disenrollment from the USAFA was improper. In view of the above, and in the absence of sufficient evidence to the contrary, the Board agrees with the USAFA/JA recommendation and adopts its rationale as the basis for the Board's decision the applicant has failed to sustain his burden of establishing that he has suffered either an error or an injustice. Additionally, the Board finds no substantiated reasons why the applicant should not serve enlisted to fulfill his ADSC. On 26 Jun 19, applicant was denied entry into the ROTC program due to an honor code violation which resulted in his disenrollment from the USAFA, not due to a mental health condition. Furthermore, the Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request as there is no evidence his mental health condition met criteria to be referred to the MEB for a medical discharge and his mental health condition does not excuse, mitigate, or outweigh his discharge. Therefore, the Board recommends against correcting the applicant's records.

## **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 the Department of the Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2019-04637 in Executive Session on 24 Aug 22:

, 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 11 Oct 19.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, USAFA JA, dated 16 Jan 20.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Feb 20.

- Exhibit E: Applicant's Response to Close Case, dated 17 Mar 20.
- Exhibit F: Letter (Admin Close), SAF MRBC to Applicant, dated 19 Mar 20.
- Exhibit G: Applicant's Response to Open Case, dated 30 Jun 21.
- Exhibit H: Advisory Opinion, AFRBA Psychological Advisor, dated 14 Jun 22.
- Exhibit I: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Jun 22.
- Exhibit J: Applicant's Response, atchs, dated 19 Jul 22.

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**

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Board Operations Manager, AFBCMR