

FOURTH ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXXXXXXXXXX

DOCKET NUMBER: BC-2020-00655-5

COUNSEL: XXXXXXXXXXXXX

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider his request to correct the following:

- a. He was not discharged on 1 May 14, but continued to serve until the end of his six year enlistment contract, 6 May 19 with award of associated back pay and allowances.
- b. His Reenlistment Eligibility (RE) code of "2C," which denotes "Involuntarily separated with an honorable discharge; or entry level separation without characterization of service," be changed.
- c. Reimbursement for dental expenses based on denial of medical treatment before separation.
- d. He be given a medical retirement.
- e. All records inconsistent with the requested relief be destroyed.
- f. Any other relief the Board deems just and appreciate.

RESUME OF THE CASE

The applicant is a former Air Force airman first class (E-3), who was honorably discharged on 1 May 14, with a narrative reason of "Personality Disorder" and was credited with 11 months and 25 days of active service.

On 27 Sep 16, the Air Force Discharge Review Board (AFDRB) recommended partially granting his request changing his narrative reason for separation from "Personality Disorder" to "Secretarial Authority" after determining he was misdiagnosed with a personality disorder. In his application dated 14 Mar 16, he appealed to the board asking for a change to the reason and authority for the discharge and to change his RE code. However, the AFDRB did not offer full and complete relief finding insufficient evidence of an inequity or impropriety to warrant a change to his RE code. In the SAF/MRBP advisory opinion dated 13 Jul 20, the Superintendent of the AFDRB concluded the discharge board granted the applicant the appropriate relief to correct an impropriety regarding the narrative reason for separation; however, since he was already discharged with an honorable characterization and due to his documented mental health, his RE code was appropriate.

On 4 Nov 20, the Board considered and denied his request for continued service and associated back pay and allowances, inconsistent records be destroyed, and a change to his RE code. The Board concurred with the rationale and recommendations of the AFRBA Psychological Advisor and SAF/MRBP and found a preponderance of the evidence did not substantiate the applicant's contentions. The Board determined the application was not timely filed and the application of liberal consideration did not warrant any relief.

On 15 Sep 21, the Board reconsidered and denied his request for continued service and associated back pay and allowances, inconsistent records be destroyed, and a change to his RE code. The Board reviewed all Exhibits, to include the applicant's additional evidence submitted by counsel dated 7 Oct 20 (received 8 Oct 20) and 19 Nov 20 and concurred with the rationale and recommendation of the AFRBA Psychological Advisory dated 30 Jun 21, which found the preponderance of the evidence did not substantiate the applicant's contentions. Specifically, the AFBCMR Psychological Advisor found he suffered from anxiety in relation to adjusting to the military environment causing academic, relationship, and interpersonal issues during service. Additionally, there was no evidence the applicant had any potentially unfitting mental health conditions during service meeting criteria for a referral to the Medical Evaluation Board (MEB) for a medical discharge/retirement. His adjustment issues were considered acute and not chronic and was the disqualifying and unsuiting condition meeting criteria for a non-compensable administrative discharge.

On 26 Jan and 13 Apr 22, the Board reconsidered and denied his request for continued service, receive associated back pay and allowances, inconsistent records be destroyed, and a change to his RE code. The Board concurred with the rationale and recommendation of the AFRBA Psychological Advisor and found a preponderance of the evidence did not substantiate the applicant's contentions. Specifically, the applicant had pre-existing mental health conditions of anxiety disorder and Pervasive Development Disorder (PDD), which were determined to have existed prior to service (EPTS) without permanent aggravation by military service. His adjustment issues were considered acute and not chronic and was the disqualifying and unsuiting condition meeting criteria for a non-compensable administrative discharge. The applicant's counsel cited the AFDRB's decision to correct his narrative reason for separation to "Secretarial Authority" as evidence his discharge was improper. While the AFDRB acknowledged the applicant did not have a valid personality disorder diagnosis and made the appropriate changes accordingly, they also acknowledged the applicant had a disqualifying mental health condition as the reason not to upgrade or change his RE code. The applicant provided new evidence of his sleep study results, diagnosis of major depressive disorder (MDD), (recurrent) and unspecified trauma disorder (moderate). The Board notes the applicant was diagnosed with new medical conditions; however, these conditions were not present at the time of discharge and the diagnosis occurred more than five years post-separation. To make a nexus to his 11 months of military service is not possible, nor would it mean these conditions would have changed the discharge narrative reason. The military Disability Evaluation System (DES) can by law under Title 10, U.S.C., only offer compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only to the degree of impairment present at the "snapshot in time" of separation from service and not based on post-service progression of disease or injury. There is no evidence or records to substantiate

the applicant had any unfitting mental health conditions. In contrast, the Department of Veterans Affairs (DVA), operating under a different set of laws, Title 38, U.S.C., is empowered to offer compensation for any medical condition with an established nexus to military service, without regard to its impact on a member's fitness to serve, the narrative reason for separation from service, or the length of time that has transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given condition may improve or worsen over the life of the veteran. Therefore, the Board recommended against correcting the applicant's records.

On 30 Nov 22, the Board considered and denied his request. After reviewing all Exhibits, the report provided by the Court remand order, and the applicant's new evidence and rebuttal, the Board remained unconvinced the evidence demonstrated an error or injustice. The remand order directed the Board to consider the responses the Board overlooked in the previous case sent by email on 8 Oct 20, 18 Nov 20 and 19 Nov 20 and any additional records that might be developed, will inform, and may obviate the need for, proceedings before the Court. The Board examined the new evidence, specifically the emails from counsel dated 8 Oct 20, 18 Nov 20 and 19 Nov 20, but found this evidence not compelling enough to overturn the previous Boards' decisions. The evidence contained in these emails included a dental invoice for a procedure in Oct 17, a DVA rating for his MDD for an examination completed in Dec 19, and medical documentation from the W----- C----- H----- and the V---- H--- dated Jan and Nov 20. The Board concluded this evidence did not support counsel's contention the applicant was denied dental care nor did it support the applicant's request he be reinstated in the service and be evaluated for a medical separation. As for his counsel's contention the AFDRB did not fully correct his record when they determined his discharge was improper, the Board concurs with the previous AFDRB decision which found the applicant had a disqualifying mental health condition which rendered him unsuited for military service meeting criteria for a non-compensable administrative discharge. The Board considered counsel's contention the applicant did not have a pre-existing mental health condition; however, the Board noted the applicant received a waiver to enter the service for pre-existing mental health conditions of anxiety disorder and PDD; and by receiving this waiver, rendered him ineligible to receive compensation should his conditions interfere with his functioning in a military setting. Furthermore, the Board applied liberal consideration to the new evidence submitted by the applicant; however, they found insufficient evidence to overturn the previous Board's decision. The Board found the evidence did not demonstrate his mental health condition or his dental issues had a direct impact on his ability to reasonably perform the duties of his office, grade, rank, or rating. In conclusion, the Board found no evidence to suggest the applicant's administrative discharge was improper and recommended against correcting the applicant's records.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letters and Records of Proceedings at Exhibits H, M, P, and T.

On 12 May 23, the applicant requested reconsideration of his request for a medical retirement, change in his RE code, extension of his time in service with back pay and allowances, reimbursement of dental expenses, removal of all inconsistent records, and any other relief deemed by the Board. He again contends, through counsel, he did not have a pre-existing mental health condition of PDD and anxiety disorder and asks the AFBCMR to supply this evidence to Counsel

pursuant to 10 U.S.C. Section 1552(a)(3)(c). He was wrongfully discharged for a misdiagnosed personality disorder which was corrected by the AFDRB when they concluded he was not provided with full administrative due process. He wanted to continue to serve and be an asset to the Air Force. The medical provider was concerned he could have been separated for misconduct that led to the misdiagnosis which is an injustice to which he is entitled to relief. He signed an enlistment contract for six years of which the Air Force failed to uphold by erroneously discharging him for a personality disorder. Furthermore, the Board failed to provide additional evidence to support a discharge for any other reason.

In the AFDRB decision, it is stated the board found sufficient evidence the applicant did not have a personality disorder or any other mental health issue and did not give a reason as to why his RE code was not changed; however, the AFBCMR decision in 2023 explained the AFDRB decision and acknowledged he did not have a valid personality disorder diagnosis and made the appropriate changes accordingly, they also acknowledged he had a disqualifying mental health condition as the reason not to upgrade or change his RE code and that he had a pre-existing mental health condition. No evidence or documentation was cited to support this.

Shortly after his separation, he suffered from major depression and anxiety. Due to this, he should have been properly medically evaluated before his discharge to determine if he should have been medically retired. If he would have been properly evaluated and not misdiagnosed, he would have had an accurate picture of his fitness for duty. He was subjected to mistreatment and bullying while on active duty and if he had a pre-existing mental health condition, this additional stressor could have aggravated his condition. The new medical evidence showing his mental health state shortly after discharge indicates he should have been retained on active duty for proper medical evaluation and treatment.

He never received proper dental treatment before his separation. He was not provided with a dental examination and other dental services 90 days prior to his separation. He was asking for dental surgery but was not treated like other airmen who were separated. The AFBCMR's previous decision did not address why they came to the decision the evidence did not support his claim. He was entitled to dental care before his separation and he had a valid dental need while on active duty. Because he did not receive the proper dental care, he incurred a \$1,805.00 expense.

In support of his reconsideration request, the applicant submitted the following new evidence: 1) Spring Haven records showing his depression right after his separation; 2) DVA decision for a service-connected MDD and General Anxiety Disorder (GAD); 3) 2017 Aultman psychological records; 4) W----- C----- H----- Behavioral Health records; and 5) dental records to include a dental invoice showing services he received on 2 Oct 17 for surgical removal of impacted teeth, a request for dental services dated 24 Feb 14 and his out-processing sheet, dated 30 Apr 14, showing he was not provided a complete dental examination and all appropriate dental services and treatment were not provided within 90 days prior to discharge.

The applicant's complete submission is at Exhibit U.

STATEMENT OF FACTS:

On 12 Jun 13, his dental health record indicates an initial evaluation screening was completed which noted his impacted third molar – all quadrants; however, found no potential dental class three findings.

Dated 19 Aug 13, clinical records from the [REDACTED] Medical Wing indicate the applicant was placed on a “Do Not Permanent Change of Station (PCS) List” awaiting Air Education and Training Command (AETC) waiver results stating Behavioral Analysis Service (BAS) initiated a waiver request for history of mental health symptoms – anxiety disorder and PDD. Patient currently denies any depression, anxiety, or homicidal ideations/suicidal ideations (HI/SI).

Dated 26 Aug 13, clinical records from the [REDACTED] Medical Wing indicate the applicant was on medical hold after having his waiver denied for military retention. He had not received an update on his waiver status and when he inquired, was informed his waiver had been approved and the previous decision was overturned. The applicant was found medically qualified by AETC on 19 Aug 13 and was given a medical waiver for his history (HX) of multiple psychotropic medications for mental health symptoms.

On 15 Apr 14, his dental health record indicates he failed to show for his appointment and when he called the clinic regarding his appointment he stated he would be separating within 30 days or less and was advised to get a copy of his chart and pursue further treatment with the DVA due to limited access to care. It was further noted the applicant was in no pain. This record further indicates an entry on 30 Apr 14, noting he did not complete separations examination and treatment within 90 days of separation.

For more information, see the excerpt of the applicant’s record at Exhibit V and the advisory opinion at Exhibit W.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor reviewed the newly submitted evidence and continues to find insufficient evidence to support the applicant’s request for the desired changes to his military records. There was no evidence he had an unfitting mental health condition resulting in disability compensation. Therefore, the opinions rendered in the previous advisories remain unchanged. The newly submitted post-service mental health treatment records consistently reported the applicant had difficulties accepting his discharge from the Air Force. The decompensation of his mood was derived from his thoughts and feelings he was erroneously discharged from the service, he had difficulties adjusting from military to civilian life, and he continued to have interpersonal relationships and occupational problems after service. His records find no error or injustice with his administrative discharge from service for having an unsuited mental health condition. None of his post-service treatment records demonstrated his military activities or duties had caused the anxiety and depression he experienced after service. As noted in the original mental health advisory and the previous supplemental advisory, the applicant had difficulties adjusting to the military causing him to exhibit and experience maladaptive behaviors that were considered to be unsuited and not unfitting for continued military service. There was an observed pattern reflected in his service treatment records, when he would enter into a new environment, i.e., basic military training (BMT), technical school, new duty assignment, etc., his anxiety and depressed mood

would exacerbate causing him difficulties. These new environments were his situational stressors. His symptoms; however, would be improved or resolved once he adapted to his new environment, his situational stressors would be abated, and he would return to his baseline functioning. His symptoms had gradually increased in severity to include having suicidal ideation that became incompatible with military service. This was the reason for his discharge for having an unsuited mental health condition.

The applicant continued to have adjustment issues after he was discharged from service as reported in his post-service treatment records. He particularly had difficulties with finding employment and establishing and maintaining relationships with others. There were a couple of reasons for his difficulties. He informed his provider at W----- C----- H----- his mental health symptoms contributed to him being unable to maintain employment due to his fear that no employer would hire him after being discharged from the military. This report did not establish his military service or duties caused his mental health symptoms or his inability to maintain employment after service. It was his fears that caused his employment problems and not the military. Many former service members obtain gainful employment after military discharge including individuals who were discharged for reasons similar to the applicant's reason for discharge. He ruminated over his Air Force discharge and this issue bothered him tremendously. Another reason or explanation for the difficulties and emotional distress he experienced after service was his mental health condition of PDD currently known as Autism Spectrum Disorder (ASD). This condition, in addition to his Anxiety Disorder, had EPTS and he required and was approved for a waiver to remain in the Air Force for these conditions. Thus, it is clear and unmistakable his condition of ASD and Anxiety Disorder EPTS. The diagnostic criteria for ASD in accordance with the current version of the Diagnostic and Statistical Manual of Mental Disorder, Fifth Edition, Text Revision (DSM-5-TR) are persistent deficits in social communication and social interaction across multiple contexts which included deficits in developing, maintaining, and understanding relationships (Criterion A), restricted repetitive patterns of behavior, interests, or activities (Criterion B), symptoms must be present in early developmental period (Criterion C), symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning (Criterion D), and these disturbances are not better explained by intellectual disability or global developmental delay (Criterion E). His inability to establish and maintain relationships and his ruminating over his discharge are better explained by his condition of ASD. The military and/or his military service did not cause him to have interpersonal relationship problems. It was noted he had interpersonal relationship problems throughout his life that predated his time in the military. These problems continued when he was briefly in the service for nine months and continued for years after his military discharge and most likely presently. As stated in the previous supplementary mental health advisory, the applicant's unsuited prior service mental health condition was exacerbated but was not permanently aggravated by his military service/duties.

The Compensation and Pension (C&P) evaluator for the applicant's DVA C&P exam offered an opinion on this matter in the report, "The claimed condition, which clearly and unmistakably existed prior to service, was aggravated beyond its natural progress by an injury, event, or illness" and provided a rationale for this statement, "Veteran had clear and unmistakable evidence of mental health issues Adjustment Disorder with anxiety prior to service. As described in the Service Treatment Records and in the report, symptoms of that mental condition were exacerbated during military service. Symptoms have been continuous since military service and continue to exist at

the higher level currently. Therefore, it is apparent the disorder was permanently aggravated beyond normal progression by military service.” The evaluator acknowledged the symptoms of the applicant’s prior-service mental health condition were exacerbated during service and this statement supports the Psychological Advisor’s opinion and determination. The evaluator also stated his symptoms had been continuous since his military service and were permanently aggravated beyond the normal progression of his military service. The Psychological Advisor disputes this opinion. The evaluator did not provide any specific or clear information about his military service and how his military service/duties permanently aggravated his EPTS/prior service mental health condition. It was a general statement with no corroborating details or evidence provided. His available and submitted post-service treatment records do not support this impression as well. The Psychological Advisor concurs his mental health condition was permanently aggravated after service but not due to his military duties. As discussed previously, there were no records or reports his military service or duties caused his post-service stressors and decompensation of his mental health condition and symptoms. It was his dissatisfaction with his military discharge (believing and feeling his discharge was erroneous) and his EPTS condition of ASD causing interpersonal relationship problems that triggered and aggravated his anxiety, depression, etc. after service. His military service technically could include his discharge action and processing, but at the time the applicant was notified of discharge action, his EPTS mental health condition was exacerbated and was not permanently aggravated by his military service. His adjustment from military to civilian life was difficult for the applicant as reported in his post-service treatment records. It was this different type of adjustment/situational stressor occurring post-service that caused the permanent aggravation of his condition as his records reflected. The permanent aggravation of his condition did not occur until after service as expressed by the evaluator’s opinion his condition progressed after service. To reiterate, the triggers for his anxiety and depression were different during service than after service because they were in response to different stressors. His anxiety and depressive symptoms may be the same or similar but again, they were in response to different stressors and experiences at different points in times in his life. Except for his interpersonal problems that were continuous throughout his lifetime, his stressors during service (BMT, technical school, etc.) vastly differ post-service (dissatisfaction with military discharge, unemployment, etc.). At the time of his military service and discharge, his mental health condition of Adjustment Disorder was “acute” and not “chronic” and therefore, did not meet the criteria to be referred to the MEB for a potential medical discharge. Chronic Adjustment Disorder meets the criteria for a referral to the MEB but he did not have this condition/chronic specifier during service. The C&P evaluator commented there was an opinion regarding conflicting medical evidence in the same C&P report. Under Section VII, *Opinion Regarding Conflicting Medical Evidence*, the evaluator wrote, “I have reviewed the conflicting medical evidence and providing the following opinion.” In the subsequent section, Section VIII, *Remarks*, the evaluator stated “Veteran was instructed to send all personal medical records to the DVA Evidence Intake Center if applicable, for proper submission into the Veterans Benefits Management System (VBMS).” The evaluator acknowledged there was conflicting medical evidence but no records were submitted to resolve this conflict. This may indicate the evaluator's opinion was based on conflicting medical evidence and not on definitive or “clear and unmistakable” evidence as the evaluator reported. The Psychological Advisor finds the C&P exam report and his available medical records did not show there was clear and unmistakable evidence his EPTS condition was permanently aggravated by his military service.

The terms “exacerbation” and “aggravation” may be confusing to some. As “aggravation” has been claimed by the applicant and legal counsel, the Psychological Advisor finds it imperative to note the difference in these two terms which are frequently utilized in medical documentation. According to DoDI 1332.18, *Disability Evaluation System*, service aggravation is the permanent worsening of a pre-service medical condition over and above the natural progression of the condition. Both terms, exacerbation and aggravation, are used to describe situations in which a pre-existing medical condition is affected by a new event or injury. A pre-existing condition is considered “exacerbated” when it is made temporarily worse by the new event or injury, but the individual will at some point return to or towards the same mental health condition before the worsening event. On the other hand, if the pre-existing condition has been made permanently worse by the subsequent event or injury, the pre-existing condition is said to have been aggravated. Briefly summarized, exacerbation means, after some time, the condition in question will return to its baseline status. Aggravation means your underlying condition is permanently worsened because of a subsequent event or injury. During service, the applicant’s symptoms were exacerbated by his situational stressors of BMT, technical school, etc. and after he acclimated to these stressors, he returned to baseline functioning. His symptoms (especially suicidal ideation) too would increase in severity in response to his acute situational stressor but would be abated and he would return to baseline functioning again. His safety risk would be elevated in times of stress and was not appropriate or compatible with military service and was the reason for his discharge. After his military discharge, his adjustment from military to civilian life was continuous and worsened by his post-service stressors. He continued to have recurring and increased symptoms over the years related to the same post-service situational stressors that had made his condition permanently aggravated.

The complete advisory opinion is at Exhibit W.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 15 Sep 23 for comment (Exhibit X), and the applicant replied on 14 Oct 23. In his response, the applicant contends, through counsel, he was discharged for a personality disorder in 2014, a condition he did not have and was discharged so expeditiously, the Air Force failed to conduct proper dental and medical evaluations. Had a proper medical evaluation been conducted, he could have been determined unfit and medically retired. He submits new evidence that shows he has service-connected disabilities, MDD, depression, anxiety, and unspecified trauma disorder, which are evaluated at 100 percent “permanent and total disabled.” The advisory opinion provided in this current case is arbitrary and capricious because it ignores the evidence he presents in his petition. He was misdiagnosed with a personality disorder which was corrected by the AFDRB. He also presented a Millon Clinical Multiaxial Inventory II test to show he did not have any problems on Axis I. Additionally, the original diagnosis of personality disorder was based on the provider’s concern he would receive a separation for misconduct and not on his medical condition.

The advisory opinion does not consider all the evidence suggesting the advisor is unwilling to rationally connect the facts of this case to the recommendation. The advisor opines he had difficulties adjusting to the military causing him to exhibit and experience maladaptive behaviors; however, the evidence shows he honorably served in the military until he was harassed and bullied

which he submitted evidence to support. He successfully completed basic and technical school training and received awards. The advisory opinion ignores the evidence showing he excelled in the military and it was only after he was bullied he experienced difficulties which likely permanently aggravated his pre-service conditions. While the advisory opinion acknowledges the additional stressors aggravated his condition and made him unable to continue his service, the advisor fails to recognize he was subjected to bullying and he should have been evaluated by a MEB. The evidence shows he experienced mental health issues which were permanently aggravated by bullying and command inaction while on active duty which prevented him from serving in the Air Force. The medical records he presents shows he suffers from an adjustment disorder with mixed anxiety and depressed mood and by 2019, he received a 50 percent rating by the DVA which suggests the bullying in the Air Force permanently worsened his pre-existing condition.

He presented his W----- C----- H----- Behavioral Health Records showing his psychiatric issues were MDD, anxiety, and disorder with adjustment disorder, and Asperger's. Specifically, the diagnosis stated he suffered from MDD, recurrent severe without psychosis, generalized anxiety disorder, mild autism spectrum disorder, and PTSD. The advisory opinion only noted he was diagnosed with PTSD, but did not meaningfully address it. Furthermore, the advisory opinion notes he suffered from a pre-existing mental health condition, Pervasive Developmental Disorder, and was approved for a waiver but fails to provide evidence of this. His parents made him go to therapy and directed him to receive medication management and he received a waiver for multiple psychotropic medications for mental health symptoms. Lastly, the advisor notes the mental health condition was exacerbated but not permanently aggravated; however, the actual quote the advisor references states the condition was permanently aggravated.

The applicant's complete response is at Exhibit Y.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the applicant's new evidence, the AFRBA Psychological Advisory, and the applicant's response, the Board concludes the applicant is not the victim of an error or injustice finding a preponderance of the evidence does not substantiate the applicant's contentions and finds no compelling reason to overturn the previous Boards' decisions and recommends against correcting the applicant's record. The Board notes the applicant was misdiagnosed with a personality disorder which was corrected by the AFDRB; however, in the SAF/MRBP advisory opinion dated 13 Jul 20, the Superintendent of the AFDRB noted due to his documented mental health condition, his reenlistment code (RE) code was appropriate. Furthermore, the Board finds the applicant had an unsuiting mental health condition which existed prior to service; however, it was not permanently aggravated by his military service. His adjustment issues were considered acute and not chronic and was the disqualifying and unsuiting condition meeting criteria for a non-compensable administrative discharge. On 19 Aug 13, the applicant was granted a medical waiver for his history of multiple psychotropic medications for

mental health symptoms which the Board finds supports the AFRBA Psychological Advisor's opinion he had a pre-existing mental health condition and further finds his condition was not permanently aggravated by his military service above and beyond the natural progression of the condition but instead was exacerbated. The Board finds the evidence submitted by the applicant does not support the contention he was harassed and bullied during his time in the service. Specifically, the Board notes, the applicant's condition would temporarily worsen when he entered into a new environment and then return to normal after he adjusted to the new situation.

The Board notes the comments from the DVA compensation and pension (C&P) examination evaluator but finds the comments were not supported by corroborating details or evidence regarding the applicant's military service and how his military service/duties permanently aggravated his mental health condition. The mere existence of a mental health diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. Furthermore, a higher rating by the DVA, based on new and/or current exams conducted after discharge from service, does not warrant a medical separation or retirement. As stated in previous cases, the military DES operates under Title 10, U.S.C. and only offers compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued active service whereas the DVA operates under Title 38, U.S.C., is empowered to offer compensation for any medical condition with an established nexus to military service, without regard to its impact on a member's fitness to serve, the narrative reason for separation from service, or the length of time that has transpired since the date of discharge.

The Board notes the additional dental evidence submitted by the applicant; however, the Board finds this evidence did not support counsel's contention the applicant was denied dental care. Specifically, the applicant was on active duty for 11 months and his initial dental exam on 12 Jun 13 reflects he had an impacted third molar (all quadrants) but found no potential dental class three findings. He had a dental appointment scheduled before his discharge; however, he failed to show for that appointment and was advised to get a copy of his chart and pursue further treatment with the DVA due to limited access to care. Therefore, based on the above, 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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2020-00655-5 in Executive Session on 25 Oct 23:

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

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

- Exhibit H: Record of Proceedings, w/ Exhibits A-G, dated 4 Nov 20.
- Exhibit M: Addendum Record of Proceedings, w/ Exhibits I-L, dated 15 Sep 21.
- Exhibit P: Second Addendum Record of Proceedings, w/ Exhibits N-O, dated 26 Jan 22 and 13 Apr 22.
- Exhibit T: Third Addendum Record of Proceedings, w/ Exhibits Q-S, dated 30 Nov 22.
- Exhibit U: Application, DD Form 149, w/atchs, dated 12 May 23.
- Exhibit V: Documentary evidence, including relevant excerpts from official records.
- Exhibit W: Advisory Opinion, AFRBA Psychological Advisor, dated 14 Sep 23.
- Exhibit X: Notification of Advisory, SAF/MRBC to Applicant, dated 15 Sep 23.
- Exhibit Y: Applicant's Response, w/atchs, dated 14 Oct 23.

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

Board Operations Manager, AFBCMR