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

**ADDENDUM TO RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

Work-Product

**DOCKET NUMBER:** BC-2020-01908-2

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

**APPLICANT’S REQUEST**

Her reentry (RE) code of 2C and narrative reason for separation be changed to allow her to reenlist.

**RESUME OF THE CASE**

The applicant is a former Air Force airman basic (E-1) who was discharged on 21 Dec 18 with an entry level separation (ELS) and an “uncharacterized” service characterization due to fraudulent entry.

On 18 Nov 20, the Board considered and denied her request to change her RE code and narrative reason for separation to allow her to reenlist; finding the applicant had provided insufficient evidence of an error or injustice to justify relief.

For an accounting of the applicant’s original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit I.

On 4 Jul 22, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to her discharge characterization, a change to her narrative reason for separation, and a change to her RE code.

On 3 Nov 22, the AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process.

On 31 Dec 22, the applicant requested reconsideration of her request to change her RE code and narrative reason for separation to allow her to reenlist. She again contends she never had a history of mental health, nor suffers from any mental health issues. In support of her reconsideration request, the applicant submitted her civilian mental health evaluation and four character reference letters.

The applicant’s complete submission is at Exhibit J.

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## **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 paragraphs 6 and 7 of the Wilkie M emorandum.

On 31 Mar 23, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit M).

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.

**Under Other than Honorable Conditions.** This characterization is used when basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of members. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial. Examples of such behavior, acts, or omissions include but are not limited to:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior - subordinate relationships.
- Acts or omissions that endanger the security of the United States.
- Acts or omissions that endanger the health and welfare of other members of the DAF.
- Deliberate acts or omissions that seriously endanger the health and safety of other persons.
- Rape, sexual assault, aggravated sexual contact, abusive sexual contact, rape of a child, sexual abuse of a child, sexual harassment, and attempts to commit these offenses.

**Entry Level Separation.** Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or

The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

## 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 reconsideration of her request to change her RE code and narrative reason for separation to allow her to reenlist. The applicant submitted a recent mental health evaluation in support of her contention. The mental health evaluation is insufficient to dispute her mental health history/issues that were documented in her objective

service treatment records. There is ample evidence to support she did have prior service mental health history/issues that were confirmed previously by the applicant. She failed to disclose her significant mental health history/issues of depression, suicidal ideation and attempt, and self-injurious behaviors during her enlistment process. At the time of service, her mental health history/issues were disclosed to at least two medical providers. These collective events contrast her contention for this petition and her recent mental health evaluation results.

Liberal consideration was not applied to her first request because her mental health conditions/issues had existed prior to service (EPTS). This opinion remains the same; however, this statement is corrected to clarify liberal consideration is not required to be applied to her request because there was no evidence her EPTS mental health condition/issues were aggravated by her military service per liberal consideration guidance. Should the Board choose to apply liberal consideration to her request even though she denies she has any mental health issues, below are responses to the four questions from the Kurta Memorandum based on information presented from the applicant and her military records. These questions were not answered in the previous advisory, and the answers to the questions were derived from information reported in the previous advisory and this advisory:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?  
The applicant denies she has any mental health history/issues and thus, based on her contention for this current petition, she does not have a condition or experience that may excuse or mitigate her discharge. She submitted a recent mental health evaluation dated 22 Jul 22 to support her contention that she does not have any past or present mental health conditions/issues.
2. Did the condition exist or experience occur during military service?  
The applicant's service treatment records revealed she disclosed having prior service mental health history/issues. On a routine mental health screening on 14 Nov 18, which occurred during her military service, she reported she felt depressed almost every day for the past three years, had recurring suicidal ideation since the age of 11, had attempted suicide by cutting herself with a razor during the past year, and had complaints of anxiety and two panic attacks in the past. She was assessed thoroughly by a psychologist on 19 Nov 18 and she confirmed she attempted suicide earlier in the year by cutting her arm with a razor and never informed anyone, had a history of suicidal ideation and depression, had engaged in self-mutilating behaviors to relive stress, and had cut herself when she was informed of her ship date to Basic Military Training. She applied to receive a waiver to remain in the Air Force for her EPTS conditions/issues; however, her request was denied.
3. Does the condition or experience excuse or mitigate the discharge?  
The applicant was discharged from service for fraudulent entry because she failed to disclose her significant EPTS mental health history/issues that she now vehemently denies but admitted to in her previous petition that was corroborated by her mother. There was no evidence her EPTS conditions/issues were aggravated by her military service and duties. Her mental health condition does not excuse or mitigate her discharge.
4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate her discharge, her condition also does not outweigh her original discharge.

The complete advisory opinion is at Exhibit K.

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

The Board sent a copy of the advisory opinion to the applicant on 23 Mar 23 for comment (Exhibit L), and the applicant replied on 1 Apr 23. In her response, the applicant contends she had no mental health issues prior to her discharge. While in Basic Military Training, she no longer wanted to be in the Air Force so she fabricated certain aspects not realizing how detrimental it would be on her life.

The applicant's complete response is at Exhibit N.

#### **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 Board remains unconvinced the evidence presented demonstrates an error or injustice; it is not sufficient to overturn the previous Board's decision. Airmen are given entry level separation with uncharacterized service when they fail to complete a minimum of 180 days of continuous active military service and the applicant failed to disclose her previous mental health condition which resulted in a fraudulent entry separation; therefore, the type of separation and character of service are correct as indicated on her DD Form 214. Additionally, the Board concurs with the rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board noted her post-service clinical records; however, finds she was correctly diagnosed and was properly treated for an unsuiting mental health condition, which EPTS and was not aggravated by her military service. Therefore, the Board recommends against correcting the applicant's records.
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 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-2020-01908-2 in Executive Session on 25 Oct 23:

Work-Product Panel Chair  
Work-Product, Panel Member  
Work-Product Panel Member

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

- Exhibit I: Record of Proceedings, w/ Exhibits A-H, dated 18 Nov 20.
- Exhibit J: Application, DD Form 149, w/atchs, dated 31 Dec 22.
- Exhibit K: Advisory Opinion, AFRBA Psychological Advisor, dated 22 Mar 23.
- Exhibit L: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Mar 23.
- Exhibit M: Letter, SAF/MRBC, Liberal Consideration Guidance, dated 31 Mar 23
- Exhibit N: Applicant's Response, dated 1 Apr 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.

3/18/2024

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Board Operations Manager, AFBCMR  
Signed by: Work-Product