



**CUI//SP-MIL/SP-PRVCY**

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2020-02208

*Work-Product*

**COUNSEL:** NONE

*Work-Product*

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

Her general (under honorable conditions) discharge be upgraded to honorable.

**APPLICANT'S CONTENTIONS**

Due to a traumatic physical assault by her child's father, she experienced severe depression related to the incident. She reached out for help from her First Sergeant while going through the experience but was stripped of her rank and blamed for the situation. She did not have a diagnosis of depression during service and did not understand she was experiencing depression until after she was discharged and continued to experience depression for years to follow. She continues to seek help for her ongoing depression attributed to her post traumatic experience.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force airman (E-2).

On 2 Aug 00, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49 for minor disciplinary infractions. The specific reasons for the action were:

- a. On 11 Sep 98, a Letter of Counseling (LOC) was issued for disrespect to a co-worker.
- b. On 11 Sep 98, a Letter of Reprimand (LOR) was issued for disobeying a direct order.
- c. On 9 Feb 00, a LOC was issued for failing to report.
- d. On 24 Feb 00, a LOC was issued for making unofficial phone calls.
- e. On 6 Apr 00, a LOR was issued for failing to report for duty.

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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

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f. On 20 Apr 00, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for disrespect and failing to obeying a lawful order and lawful regulation. She received a reduction in grade to airman (E-2).

On 4 Aug 00, the Acting Staff Judge Advocate found the discharge action legally sufficient.

On 9 Aug 00, the discharge authority directed the applicant be discharged for minor disciplinary infractions, with a general service characterization. Probation and rehabilitation was considered, but not offered.

On 16 Aug 00, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct" and she was credited with two years, five months, and six days of total active service.

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

**POST-SERVICE INFORMATION**

On 31 Aug 20, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI). This letter informed the applicant that a Federal Bureau of Investigation (FBI) background check would assist the Board in evaluating her case however, she has not replied.

**APPLICABLE AUTHORITY/GUIDANCE**

AFI 36-3208, Section 3C, *Dependency or Hardship*, paragraph 3.20 states airmen may request discharge when genuine dependency or undue hardship exists. A basis for discharge may exist when: (1) the dependency or hardship is not temporary; (2) conditions have arisen or have been aggravated to an excessive degree since the airman entered active duty; (3) the airman has made every reasonable effort to remedy the situation; (4) separation will eliminate or materially alleviate the conditions; and (5) there are no means of alleviation readily available other than the separation. Undue hardship or dependency does not necessarily exist because of altered present or expected income; or the family is separated or must suffer the inconveniences usually incident to military service.

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

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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 31 Aug 20, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

AFI 36-3208, *Administrative Separation of Airmen*, describes the types of service characterization:

**Honorable.** The quality of the airman's service generally has met 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.

**Under Honorable Conditions (General).** 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 airman's military record.

#### **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 her record. A review of her records finds she had difficulties securing daycare services for her child and being a single parent in the service affecting her behaviors and misconduct towards the end of her military service. The Board may consider upgrading her discharge based on a dependency hardship and/or obtain an advisory from a personnel subject matter expert to determine if she would have met requirements for a dependency hardship discharge for an upgrade of her service characterization.

No evidence was found that she reported being physically assaulted by her child's father as contended during service. In all of her personal statements in response to her disciplinary actions at the snapshot in time of service, she attributed her attitude, behaviors, and emotional reactions to stressors related to finding daycare for her child and being a single mother in the military. She made no mention of any abuse from her child's father and her chain of command made no reports of any assault she was experiencing in her military personnel file. There were also no records she was involved in the Family Advocacy Program for domestic violence or maltreatment by an intimate or non-intimate partner, particularly since she alleged she informed her First Sergeant of the assault. Considering the applicant's personal testimony as evidence that she did endure physical abuse causing her to feel depressed affecting her behaviors, this Psychological Advisor finds insufficient evidence has been provided to explain her behaviors. The applicant did not provide a timeline of when her physical assault had occurred and how this experience caused any of her behaviors. The applicant had documented behavioral and misconduct problems beginning as early as Sep 98, six after months after she had entered the service, and no indication her assault experience had occurred during this time. Again, the applicant did not provide enough information to explain how her depression from her physical assault experience may have caused some, all, or none of her behaviors or misconduct, especially in light of no medical records available or no witness/character statements submitted to corroborate her claims, and the limited records that are available, do not adequately substantiate her claim. There was no evidence she was depressed, experienced trauma, and/or was diagnosed, evaluated, or received treatment for a mental health condition in service. Thus, this Psychological Advisor finds her contentions were not sufficient enough to support her request for an upgrade.

Despite the lack of objective evidence to support her contentions, there were however, records showing the applicant had reported being "emotionally charged" and stressed with difficulties finding daycare for her child and simultaneously being a single parent in the service. Her comments of being "emotionally charged" were not defined clearly in her personal statements; however, there was also no evidence her emotional stressors were considered to be a mental health condition or disorder. Her emotional reaction appeared to be congruent to her stressful situation. She informed her commander she had requested a hardship or parenthood discharge but received no responses to her request. This Psychological Advisor opines her difficulties in service

especially her behaviors towards the end of her military career were caused by her dependency hardship issue. The Board may consider upgrading her discharge based on this reason and/or obtain an advisory from a personnel subject matter expert to determine if she would have met criteria for dependency hardship discharge. If she meets criteria, this type of discharge may provide to her the requested relief of an upgrade of her service characterization. In summary, this Psychological Advisor finds no error or injustice with her discharge based on her contentions of her physical assault experience and ensuing mental health condition.

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 contends she suffered from a traumatic experience of physical assault from her child's father causing her to feel depressed affecting her behaviors in service.

2. Did the condition exist or experience occur during military service?  
There is no evidence the applicant received an evaluation, diagnosis, or treatment for any mental health conditions to include depression and no evidence she experienced any physical assault from her child's father during military service. The applicant did not submit any medical records or provide any clarifying or compelling statements to support her contentions.

3. Does the condition or experience excuse or mitigate the discharge?  
Since there is no evidence she had any mental health conditions to include depression or had any traumatic experiences during service, her condition or experience does not excuse or mitigate her discharge.

4. Does the condition or experience outweigh the discharge?  
Since there is no evidence her mental health condition and/or experience excuses or mitigates her discharge, they also do not outweigh her 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 25 Jan 22 for comment (Exhibit E), but has received no response.

#### **FINDINGS AND CONCLUSION**

1. The application was timely filed. Given the requirement for passage of time, all clemency requests are technically untimely. However, it would be illogical to deny a clemency application as untimely, since the Board typically looks for over 15 years of good conduct post-service. Therefore, the Board declines to assert the three-year limitation period established by 10 U.S.C. § 1552(b).

2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Liberal consideration was applied to the applicant's request due to the contention of a mental health condition, however, since there is no evidence her mental health condition had a direct impact on her behaviors and misconduct resulting with her discharge nor was there evidence of a reported physical assault, her condition or experience does not excuse, mitigate, or outweigh her discharge. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Furthermore, the Board considered upgrading her discharge based on a dependency hardship but felt the evidence presented did not warrant an upgrade based on this type of discharge. 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-02208 in Executive Session on 27 Jul 22:

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

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

- Exhibit A: Application, DD Form 149, dated 5 May 20.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 31 Aug 20.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 15 Dec 21.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Jan 22.

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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.

5/17/2023

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF