



**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-2020-02816

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

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

**APPLICANT'S CONTENTIONS**

He suffered from an undiagnosed, misdiagnosed or untreated mental health condition to include Post-Traumatic Stress Disorder (PTSD) while in the service. He was discharged for related reasons.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 27 Apr 79, the applicant's commander recommended he be discharged from the Air Force, under the provisions of AFM 39-12, chapter 2, section B, paragraph 2-14a, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*. The specific reasons for the action were frequent involvement of a discreditable nature with military authorities.

The applicant's records reflects he received five Article 15s for possession of marijuana and failure to go. In addition, he received two letters of reprimand (LORs) and 15 letters of counseling (LOCs) for failure to go, failing room inspections, sleeping on duty, failure to register his vehicle and financial irresponsibility. The applicant offered a conditional waiver of his rights associated with an administrative discharge board hearing. The waiver was contingent on his receipt of a general discharge if the recommendation for his discharge was approved.

On 27 Apr 79, the applicant acknowledged receipt of the letter of notification.

On 10 May 79, the staff judge advocate found the discharge action legally sufficient.

On 22 May 79, the discharge authority accepted the applicant's conditional waiver and directed he be discharged for misconduct, with a general (under honorable conditions) service characterization.

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Controlled by: SAF/MRB  
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On 24 May 79, the applicant received a general (under honorable conditions) discharge with a separation code of "HKA," which denotes "Misconduct-Pattern Discreditable Involvement with Military or Civil Authorities." He was credited with two years, seven months, and four days of total active service.

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

**POST-SERVICE INFORMATION**

On 1 Apr 21, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI); however, he has not replied.

**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

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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 1 Apr 21, 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 finds insufficient evidence the applicant had any mental health issues during service and no evidence he was undiagnosed, misdiagnosed or had untreated mental health conditions to support his request for a change to his service characterization. The applicant had multiple misconduct incidents that led to three Article 15s, two LORs, and several LOCs of counseling during his brief time in service. There is no evidence that shows his mental health condition or experience caused any of his behaviors and misconduct leading to discharge from service. The Department of Veterans Affairs (DVA) diagnosed him with PTSD, 29 years post discharge, caused by his childhood and adulthood experiences. Most of his traumatic experiences had existed prior to service and no evidence they were aggravated by his military service. His adulthood traumatic experiences appeared to have been exacerbated and aggravated by his post service stressors according to his DVA treatment but had no relation to his military duties. These conditions had developed albeit gradually several years post service and no evidence a nexus existed between these conditions and his functioning during service. Thus, there is no error or injustice with his discharge from service.

The Board applied liberal consideration to the applicant's request. The following are answers to the four questions from 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 he had undiagnosed, misdiagnosed, and untreated mental health conditions to include PTSD during service causing his discharge.
2. Did the condition exist or experience occur during military service?  
There is no evidence the applicant was diagnosed with PTSD or any other mental health conditions during service and no evidence he had any traumatic experiences or physical injuries to include a loss of consciousness during military service. He was diagnosed with PTSD, Bipolar Disorder, and Adjustment Disorder decades post service.
3. Does the condition or experience excuse or mitigate the discharge?

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Since there is no evidence he had any mental health conditions to include PTSD or had any traumatic experiences during service, his condition or experience does not excuse or mitigate his discharge. The applicant did not submit any records/evidence and did not provide any clarifying or compelling statement to support his contention.

4. Does the condition or experience outweighs the discharge?

Since there is no evidence his mental health condition and/or experience excuses or mitigates his discharge, they also do not outweigh his original discharge.

The complete advisory opinion is at Exhibit D.

**APPLICANT’S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 16 Feb 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. The Board considered the applicant's request under fundamental fairness based on the Wilkie guidance and does not find an injustice with her discharge. Finally, the Board is satisfied that the application of liberal consideration does not warrant relief. Therefore, the Board recommends against correcting the applicant’s record.

**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-2020-02816 in Executive Session on 25 May 2022:

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

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

Exhibit A: Application, DD Form 149, dated 23 Jun 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 1 Apr 21.

Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 6 Dec 21.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Feb 22.

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

3/17/2023

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF