**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:** **DOCKET NUMBER:** BC-2020-02341

XXXXXXXXXX **COUNSEL:** NONE

 **HEARING REQUESTED:** NO

**APPLICANT’S REQUEST**

Her narrative reason for separation and reenlistment eligibility (RE) code be changed to allow her to enlist in the Air National Guard (ANG).

**APPLICANT’S CONTENTIONS**

While at her first duty station, she was in a stressful environment with supervisors that had a lack of integrity. She had a medical condition that led to surgery, with continued pain and no leadership intervention to help her. She took it upon herself to see a counselor to receive help on ways to help with adjusting to a toxic military environment. After over a year of struggling, she was open to the idea of being discharged. At that time, she was diagnosed with a Personality Disorder and though she disagreed, accepted the discharge. She now wants to enlist in the ANG, but cannot do so with the current narrative reason and RE code.

The applicant’s complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is an honorably discharged Air Force airman first class (A1C).

On 12 Apr 99, an Information Memorandum shows a mental health provider saw the applicant on several occasions that involved emergency crisis intervention and she has been evaluated with psychological assessment instruments, diagnostic clinical interview, ongoing psychotherapy interventions, and review of medical records. She was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood.

On 15 Apr 99 the following actions occurred:

a.  Notification Memorandum shows the applicant’s unit commander recommended her honorable discharge from the Air Force for Conditions that Interfere with Military Service (Mental Disorders) under the authority of AFPD 36-32 and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.11.1.

b.  Receipt of Notification Memorandum shows the applicant waived her right to military counsel and indicated she would not be submitting statements on her behalf.

c. Recommendation for Discharge Memorandum shows the discharge authority recommended her honorable discharge from the Air Force for Conditions that Interfere with Military Service (Mental Disorders) under the authority of AFPD 36-32 and AFI 36-3208, paragraph 5.11.1. Specifically, her disorder affected her duty performance and is so severe that her ability to function effectively in a military environment is significantly impaired.

d. Legal Review of Administrative Discharge Memorandum shows the discharge recommendation was found legally sufficient.

On 19 Apr 99, an Administrative Discharge Memorandum shows the discharge authority approved the discharge.

On 21 Apr 99, DD Form 214, *Certificate of Release or Discharge from Active Duty*, shows the applicant was honorably discharged from the Air Force under authority of AFI 36-3208 with a narrative reason for separation of Personality Disorder with the corresponding separation code of JFX and reentry code 2C.

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

**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.

Currently, service members diagnosed with mental health conditions receive heightened screening to ensure the causal relationship of possible symptoms and discharge basis is fully considered, and characterization of service is appropriate. Veterans discharged under prior procedures, or before verifiable diagnosis, may not have suffered an error because the separation authority was unaware of their condition or experience at the time of discharge. However, when compared to similarly situated individuals under current standards, they may be the victim of injustice because commanders fully informed of such conditions and causal relationships today may opt for a less prejudicial discharge to ensure the veteran retains certain benefits, such as medical care.

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 July 2018, 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 3 Mar 21, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit G).

**AIR FORCE EVALUATION**

AFPC/DP2SSR recommends denying the applicants request to change her narrative reason for separation. Based on review of the applicant’s request and Master Personnel Record, there is no evidence of an error or injustice with the discharge processing. The commander received documentation from competent medical authorities who diagnosed the applicant with a condition that interfered with military service and recommended discharge accordingly.

The complete advisory opinion is at Exhibit C.

AFPC/DP2SSM recommends denying the applicant’s request to change her RE code, indicating there is no evidence of an error or injustice. The applicant’s RE code was updated to “2C” (Involuntary separated with an honorable discharge; or entry level separation without characterization of service) based on her involuntary discharge with an honorable character of service.

The complete advisory opinion is at Exhibit D.

The AFRBA Psychological Advisor recommends denying the application and finds no error with her discharge from service; however, there was an error with the narrative reason listed on her DD Form 214. The applicant was discharged for having an unsuiting mental health condition of Adjustment Disorder with Mixed Anxiety and Depressed Mood due to her inability to adjust to the military environment and not because of a personality disorder. There was no evidence she was diagnosed with a personality disorder during or post-service. Both conditions are unsuiting conditions resulting with an administrative discharge, which the applicant appropriately received. It appeared the current narrative reason was an administrative error. However, current regulations do not allow for reentry for having a history of mental health conditions and treatment. Her diagnosis of an Adjustment Disorder, caused by the rigors of the military environment/situational stressor, given during service was assessed to be valid based on her records and clinical presentation at the snapshot in time of service. Therefore, her request for reentry could not be supported, but recommends the Board change her narrative reason for separation to “Secretarial Authority” to correct the administrative error.

Liberal consideration is applied to the applicant’s request. The following responses are based on information provided in the records to the four pertinent questions in the policy:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The applicant contends she does not have a personality disorder.

1. Did that condition exist/experience occur during military service?

There is no evidence the applicant was diagnosed with a personality disorder during or post-service. She was however, diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood for having difficulties adjusting to the military.

1. Does that condition or experience actually excuse or mitigate the discharge?

The applicant’s Adjustment Disorder was the cause and reason for her discharge and does not excuse or mitigate her discharge. This diagnosis was assessed to be valid based on her records.

1. Does that condition or experience outweigh the discharge?

There was no error identified with the applicant’s administrative discharge for having an unsuiting mental health condition of an Adjustment Disorder. This condition does not outweigh her original discharge.

The complete advisory opinion is at Exhibit E.

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

The Board sent a copy of the advisory opinions to the applicant on 3 Mar 21 for comment (Exhibit F), and the applicant’s response was received 8 Mar 21. In her response, the applicant again contended she was never diagnosed with a Personality Disorder and she agreed to the discharge against her better judgement. She believes there is no personal, professional, nor medical reason barring her from reentry nor limiting her ability to serve, as evidenced by her post-service employment as a nurse practitioner.

The applicant’s complete response is at Exhibit H.

**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 concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence substantiates the applicant’s contentions in part. Specifically, the applicant provided a memorandum from a Clinical Psychologist, indicating she was diagnosed with Adjustment Disorder with mixed anxiety and depressed mood, which is sufficient to justify granting the applicant’s request to change her Narrative Reason for Separation and corresponding separation code. However, for the remainder of the applicant’s request, the evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant’s request. The Board is satisfied that the application of liberal consideration or fundamental fairness does not warrant relief. Therefore, the Board recommends correcting the applicant’s records as indicated below.

**RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued in conjunction with her 21 April 1999 discharge, Block 26, *Separation Code* to read “JFF” and Block 28, *Narrative Reason for Separation* to read “Secretarial Authority.”

**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-2020-02341 in Executive Session on 14 Jun 21:

, Panel Chair

, Panel Member

, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 12 Jun 20.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 16 Oct 20.

Exhibit D: Advisory Opinion, AFPC/DP2SSM, dated 12 Nov 20.

Exhibit E: Advisory Opinion, AFBCMR Psychological Advisor, dated 24 Feb 21.

Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Mar 21.

Exhibit G: Letter, SAF/MRBC, w/atchs (Clarifying Guidance and Liberal

 Consideration), dated 13 Nov 20.

Exhibit H: Applicant’s Response, dated 8 Mar 21.

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.