

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2020-03396

XXXXXXXXXX

**COUNSEL:** XXXXXXXXXXXX

**HEARING REQUESTED:** YES

### APPLICANT'S REQUESTS

1. Her Military Health Record and Administrative Separation Health Record Summary diagnosis be changed from Borderline Personality Disorder (BPD) to Adjustment Disorder (AD).
2. Reinstatement back into the Air Force with back pay and benefits.

### APPLICANT'S CONTENTIONS

She was misdiagnosed with BPD after having been previously diagnosed with AD. Because she was wrongfully discharged on the basis of this misdiagnosis, she is entitled to reinstatement as well as back pay and benefits that have accrued since her separation.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an honorably discharged Air Force senior airman (E-4).

On 28 Mar 17, DD Form 4, *Enlistment/Reenlistment Document*, shows the applicant enlisted in the Air Force for a period of six years.

On 29 Apr 20, 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, *Administrative Separation of Airmen*, with narrative reason for separation of Condition, Not a Disability with the corresponding separation code of JFV and reentry code 4H.

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

### APPLICABLE AUTHORITY

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.

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued supplemental guidance (Wilkie Memo) 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 5 Apr 21, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit F).

## **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 records. The applicant is requesting a change to her health records, which reflect a diagnosis of Borderline Personality Disorder (BPD) to a diagnosis of Adjustment Disorder (AD), and is requesting compensation for the diagnosis of AD. During the applicant's initial appointment at

the mental health clinic, she was given a provisional diagnosis of AD with mixed anxiety and depression along with a rule out diagnosis of BPD. To confirm the diagnosis of BPD, the applicant had 21 sessions with her primary provider who provided documentation of the differential diagnosis and the progression of provisional and rule out diagnoses throughout the applicant's course of treatment prior to discharge. The applicant underwent psychological testing, which showed evidence of the context for the diagnosis of BPD. The applicant agreed to an appointment with a secondary mental health provider at the clinic for a second opinion and the secondary provider confirmed the diagnosis of BPD. This conclusion was reached prior to the six-month duration of symptoms exhibited and endorsed by the applicant, thus no retirement in lieu of or medical evaluation board was pursued by the providers. The applicant submitted a summary of a single telehealth session with a civilian provider after she was discharged indicating a diagnosis of AD, but the provider is unable to render an opinion of the applicant during the snapshot in time of the applicant's military service. However, the symptoms and presentation the provider described in the checklist summary, diagnosis aside, does not refute the evidence in the applicant's military medical record. The diagnosis of BPD appears to be appropriate based on the applicant's clinical presentation during the snapshot in time of military service. Although no error was identified with the applicant's diagnosis given in service of BPD, if the applicant's diagnosis were to be changed to AD, it would also be non-compensable. Both diagnoses are unsuited in this applicant's case and would result in a non-compensable, administrative separation, which she appropriately received. There was no error identified in her discharge processing.

Liberal consideration is applied to the applicant's request due to the contention of a mental health condition. The following responses are based on information provided in the recorded 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 was diagnosed with Borderline Personality Disorder in service.

2. Did the condition exist or experience occur during military service?

The applicant's service treatment records indicate she was given diagnosis of Borderline Personality Disorder during military service.

3. Does the condition or experience excuse or mitigate the discharge?

The applicant was discharged due to having an unsuited mental health condition, Borderline Personality Disorder. This condition explains and caused her discharge but does not mitigate her discharge. There was no error identified with this diagnosis.

4. Does the condition or experience outweigh the discharge?

The applicant's mental health condition of Borderline Personality Disorder is an unsuited condition and therefore does not outweigh the discharge. The applicant had no unfitting conditions meeting criteria for a medical discharge.

The complete advisory opinion is at Exhibit C.

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

The Board sent a copy of the advisory opinion to the applicant on 3 Mar 21 for comment (Exhibit D), and the applicant replied on 29 Mar 21. In her response, the applicant contended the Board should credit the independent psychological assessment diagnosing her with AD and ignore the flawed clinical findings upon which the Advisory Opinion relied on. The applicant believes her words were stretched beyond their original settings to reach an improper diagnosis. The applicant's complete response is at Exhibit E.

## **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 not the victim of an error or injustice. The Board concurs with the review and rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Additionally, the Board is satisfied that the application of liberal consideration does not warrant relief. Therefore, the Board recommends against correcting the applicant's record.
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-2020-03396 in Executive Session on 14 Jul 21:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 8 Sep 20.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFBCMR Psychological Advisor, dated 1 Mar 21.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 3 Mar 21.

Exhibit E: Applicant Notification of Clarifying Guidance  
Exhibit F: Applicant's response, dated 29 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.

X

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*Work-Product*  
Board Operations Manager, AFBCMR

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