



UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-00029-3

COUNSEL:

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request:

1. His "Uncharacterized" Entry Level Separation (ELS) be upgraded to an honorable discharge.
2. He be given a medical retirement.

RESUME OF THE CASE

The applicant is a former Air Force Reserve (AFR) airman first class (E-3) who was honorably discharged on 17 Mar 05. Reserve Order [REDACTED], dated 17 Mar 05, Reserve Order [REDACTED] indicates he was honorably discharged; however, in the remarks section it is noted "ELS without Characterization of Service." His separation order will be administratively corrected, and this statement will be removed.

On 20 Oct 21 and 7 Feb 22, the Board considered and denied his request for a change to his discharge and to find him unfit for military service with a 30 percent disability rating for his anxiety and depressive disorder; finding the applicant had provided insufficient evidence of an error or injustice to justify relief. The Board concurred with the rationale and recommendations of the AFBCMR Medical and the AFRBA Psychological Advisors and found a preponderance of the evidence did not substantiate the applicant's contentions. The characterization of the applicant's service was deemed uncharacterized as the applicant did not complete the entry level status of 180 days of active service as detailed in AFI 36-3208, *Administrative Separation of Airmen*. No records were submitted by the applicant to substantiate his claim his anxiety and depression were what led to his ELS and there were no records confirming a mental health condition caused the applicant's ELS. The Board found the healthcare provider issuing a medical appropriate opinion for an individual's self-reported symptoms from the supposed start of Multiple Sclerosis (MS) nearly two decades ago, was questionable. Other documents, as well as the preponderance of evidence, heavily suggested the applicant's time in Basic Military Training (BMT) was a relapse of MS and therefore, was further assessed as existed prior to service (EPTS). The Board found no

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evidence the applicant had any medical conditions that warranted processing through the Air Force Disability Evaluation System (DES) at the time of the applicant's discharge.

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 L.

On 10 May 23, the applicant requested reconsideration of his request for a change to his discharge and a medical retirement. He again contends, through counsel, he served more than 180 days with no disciplinary actions or derogatory data against him and therefore is entitled to an honorable discharge. In the previous case, the Board relied on the wrong AFI to assess his request for an honorable discharge. AFI 36-3208, *Administrative Separation of Airmen*, is for active-duty airmen; however, he was a member of the AFR. The applicable authority is AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, which states for members of a Reserve component who have not completed 180 days of continuous active military service and who are not on active duty, entry-level status begins upon enlistment in a Reserve component (including a period of assignment to a delayed entry program). Entry-level status ends 180 days after beginning an initial period of entry-level active-duty training. He entered BMT on 15 Jul 03 but was not separated from the AFR until 17 Mar 05, well over 180 days after his initial period of entry-level active-duty training.

Additionally, he should be given a medical retirement for his MS and other collateral ailments which did not exist prior to service. At no time before joining the Air Force was he diagnosed with MS nor was it discovered at the Military Entrance Processing Station (MEPS). He was released from service before he was afforded a Medical Evaluation Board (MEB). In 2005, the DoD did not recognize chronic adjustment disorder as a compensable disability; however, that changed in 2013. Had this guidance been in place, he would have likely gone through a MEB and medically separated. In addition to his depression and chronic adjustment disorder, he suffered from chronic bowel incontinence during his enlistment, and beyond which is a disqualifying condition for military service and warrants entry into the DES. In the previous case, it is highly unlikely heat, fatigue, and dietary changes would lead a 20-something year old man to start defecating and urinating his pants. Since he was on orders for more than 30 days, per DoDI 1332.38, *Disability Evaluation System*, his impairment should have been determined as to whether it was incurred or aggravated while he was entitled to basic pay. He should have been immediately brought to medical; however, his issues were ignored which is apparent in the mishandling of his profile. In the previous case, the Board ignored evidence from G---- which noted he was being treated for anxiety and depression related to his bouts of bowel incontinence from 2005 to 2008. It also ignored evidence from K-----, a fellow trainee, who commented on his medical difficulties which supports Doctor A-----'s belief his MS more likely than not started during his BMT.

In support of his reconsideration request, the applicant submitted the following new evidence: (1) a claim support statement from a former office manager of F----- P----- of H----- H----- who attested the loss of his medical records from 2000 through 2009; (2) a claim support statement from F-----, attesting to his employment status and performance from Mar 04 through Dec 08; and (3) an email from his unit regarding his separation.

The applicant's complete submission is at Exhibit M.

APPLICABLE AUTHORITY/GUIDANCE

On 4 Apr 24, the Under Secretary of Defense for Personnel and Readiness issued a memorandum, known as the Vazirani Memo, to military corrections boards considering cases involving both liberal consideration discharge relief requests and fitness determinations. This memorandum provides clarifying guidance regarding the application of liberal consideration in petitions requesting the correction of a military or naval record to establish eligibility for medical retirement or separation benefits pursuant to 10 U.S.C. § 1552. It is DoD policy the application of liberal consideration does not apply to fitness determinations; this is an entirely separate Military Department in determining whether, prior to "severance from military service," the applicant was medically fit for military service (i.e., fitness determination). While the military corrections boards are expected to apply liberal consideration to discharge relief requests seeking a change to the narrative reason for discharge where the applicant alleges combat- or military sexual trauma (MST)-related PTSD or TBI potentially contributed to the circumstances resulting in severance from military service, they should not apply liberal consideration to retroactively assess the applicant's medical fitness for continued service prior to discharge in order to determine how the narrative reason should be revised. Accordingly, in the case of an applicant described in 10 U.S.C. § 1552(h)(1) who seeks a correction to their records to reflect eligibility for a medical retirement or separation, the military corrections boards will bifurcate its review.

- a. First, the military corrections boards will apply liberal consideration to the eligible Applicant's assertion that combat- or MST-related PTSD or TBI potentially contributed to the circumstances resulting in their discharge or dismissal to determine whether any discharge relief, such as an upgrade or change to the narrative reason for discharge, is appropriate.
- b. After making that determination, the military corrections boards will then separately assess the individual's claim of medical unfitness for continued service due to that PTSD or TBI condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

On 3 Jun 24, Board staff provided the applicant a copy of the guidance (Exhibit R).

AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the application finding insufficient evidence to support the applicant's requested change to his service records. In his current reconsideration request, the applicant provided no new information to support the contention his MS was incurred during BMT, and he should therefore be medically retired. Rather, he and his

counsel essentially restated the arguments and the supporting documentation previously presented to the Board. The only new medically relevant evidence consisted of the attestation to the loss of his primary care provider's (PCP) records, which does not alter the conclusions expressed in the Medical Advisory presented to the original Board, the difference in the terms of an onset of a condition versus a relapse and or exacerbation of a condition is significant in this case and the available evidence heavily suggests the symptoms the applicant experienced during BMT may have represented a relapse of MS and therefore his condition can at best be deemed as EPTS.

The EPTS consideration is particularly relevant in reference to the applicant's argument via his counsel, according to DoDI 1332.38, section E3.P4.5, when members are on orders to active duty of more than 30 days, which was the case for the applicant, it must be determined whether an impairment was incurred or aggravated while member was entitled to basic pay. However, per this same DoDI, section E3.P4.5.4, signs or symptoms of chronic disease identified so soon after the day of entry on Military Service (usually within 180 days) that the disease could not have originated in that short a period will be accepted as proof the disease manifested prior to entrance into active Military Service. Therefore, the applicant would not be subject to DES processing, as noted by the Board in the original case.

The complete advisory opinion is at Exhibit N.

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for a medical discharge/retirement from a psychological perspective. The applicant stated he submitted new evidence, and this evidence consists of a letter from F-----, dated 22 Jul 20 (15 years after his military service). The applicant contends this letter confirms his employer's notification of a diagnosis of social phobia and reduced performance and reliability between the start of BMT in 2003 and his discharge in 2005. While it does confirm he related to F----- he was diagnosed with social phobia, it is not a statement from his treating mental health provider. It shows he informed F----- of his mental health diagnosis. Additionally, F----- does not indicate when his symptoms began or what caused them, as the applicant contends. Finally, despite the applicant's contended mental health symptoms, he worked for this company from Mar 04, until it went out of business in Dec 08.

The Psychological Advisor concurs with the previous advisor's conclusion, there is insufficient evidence the applicant had an unfitting mental health condition during his military service or at discharge. It is further noted the applicant completed BMT, which indicated he was fit for duty at the time of completion of BMT. Counsel contends he was placed on a profile for mental health reasons; however, his profile report indicated he was placed on a temporary profile for physical capacity/stamina (P) reasons, not psychiatric. Examples of physical capacity or stamina issues include heart, respiratory system, gastrointestinal system, genitourinary system, nervous system, allergic, endocrine, metabolic and nutritional diseases, diseases of the blood and blood-forming tissues, dental conditions, diseases of the breast, and all other organic defects and diseases that do not fall under other specific factors of the system. Physical capacity issues do not include psychiatric (S) conditions which include personality, emotional stability, psychiatric diseases, and

any substance abuse disorders. Therefore, he was not issued a profile for a mental health issue which did not result in his unfitness for duty.

While his Narrative Reason for discharge is unknown, there is insufficient evidence to suggest it was for mental health reasons. The applicant submitted a Disability Benefits Questionnaire (DBQ) dated 30 Apr 20, approximately 15 years after military discharge. He was diagnosed with anxiety disorder due to a medical condition. It is noted the military's DES, established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on post-service progression of disease or injury. To the contrary, the DVA, operating under a different set of laws, Title 38, U.S.C., is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating awards as the level of impairment from a given medical condition may vary (improve or worsen) over the lifetime of the veteran. It should also be noted, being diagnosed with a mental health condition, and receiving mental health treatment does not automatically render a condition as unfitting. More information is required to determine unfitness such as being placed on a permanent duty limiting condition (DLC) profile for a mental health condition, being deemed not worldwide qualified (WWQ) due to a mental health condition, and impact or interference of the condition on the service member's ability to reasonably perform their military duties in accordance with their office, grade, rank, or rating. These designations were absent from his records from a mental health perspective.

The complete advisory opinion is at Exhibit O.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 16 May 24 for comment (Exhibit P), and the applicant replied on 21 May 24. In his response, through counsel, the applicant contends there are procedural errors, regulatory non-compliance, and inadequacies in the medical and psychological evaluations. He reported his condition within 180 days post active duty which should have prompted a line of duty (LOD) determination. He was on a profile for over a year which should have prompted a Medical Evaluation Board (MEB) to have his condition evaluated for service aggravation. The medical advisor's opinion did not sufficiently consider the possibility of service aggravation. Both medical advisor opinions rely almost entirely on the term "relapse" to suggest pre-existing MS, effectively misinterpreting established MS terminology. The National Multiple Sclerosis Society clearly defines terms like relapse, exacerbation, attack, or flare-up as encompassing new or worsening symptoms, regardless of the condition's origin. Military service can be a trigger for MS onset. However, the advisors completely disregarded this possibility due to their misinterpretation of "relapse." This oversight ignores the well-founded opinion of two board certified neurologists who concluded the condition began during BMT. Additionally, the psychological advisor's review also failed to adequately consider the mental health conditions diagnosed by multiple providers, including

his primary physician, Doctor A-----. The psychological advisor made several incorrect assertions and overlooked valuable evidence.

Furthermore, a medical separation examination was required before separation, but was not performed. AFI 48-123, *Medical Examinations and Standards*, paragraph 5.5.1.3 requires a separation examination when separation from service is involuntary. Lastly, the advisors failed to address the misapplication of AFI 36-3208 regarding his ELS.

On 18 Jun 24, the applicant submitted another response. In this response, the applicant contends the onset of his MS occurred during BMT to which the medical advisory opinion implicitly acknowledges the presence of MS during his military service. The advisory opinion does not provide evidence the disease was not incurred or aggravated in the line of duty; therefore, the presumption of aggravation stands. Service aggravation is defined as the permanent worsening of a pre-existing medical condition above the natural progression and given the unpredictable nature of MS and the unique stressors at BMT, it is improbable to demonstrate the natural progression of his condition would have been identical without service-related stressors. Multiple studies have found physical and psychological stress can exacerbate MS symptoms. Research indicates an increased prevalence of MS among military personnel compared to the general population. This heightened prevalence underscores the potential impact of military service on the development and aggravation of MS caused by the nature of military service. The rigorous physical demands and psychological pressures of BMT are well-documented stressors that could have significantly contributed to the aggravation of his MS. This is supported by expert opinions from two neurologists who evaluated his condition and concluded the stress and physical exertion associated with BMT likely exacerbated his symptoms.

Given the drastic change in baseline health post BMT, the Board must provide competent medical evidence to rebut the presumption of aggravation, which has not been done in the current advisory opinions. Additionally, the stressors of BMT and their impact on MS should be factored into the evaluation of his case.

The applicant's complete responses are at Exhibits Q and S.

On 31 Jan 25 and 23 May 25, the applicant submitted additional evidence for review. He submitted a sworn statement from his former Military Training Instructor (MTI) corroborating key incidents during BMT which led to and exacerbated his physical and mental conditions. He had leg weakness and falls while in formation, sudden loss of bowel control, and was discouraged from seeking medical treatment. Shortly after BMT, he sought treatment for depression and anxiety due to the significant psychological harm arising from the training environment. Additionally, the applicant submitted the DVA appeal decision, dated 24 Apr 25, whereas the DVA granted his MS as service-connected with fatigue, depression, sleep disorder, and joint pain as secondary to MS.

The applicant's complete responses are at Exhibits T and U.

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. The Board concurs with the rationale and recommendations of the AFBCMR Medical Advisor and the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions and based on the 4 Apr 24 memorandum from the Under Secretary of Defense for Personnel and Readiness, known as the Vazirani Memo, the Board did not consider the applicant's request for a medical retirement under liberal consideration. Specifically, the Board finds the new evidence he submitted insufficient to prove the applicant had an unfitting mental health condition during his military service nor does the Board find this new evidence supports his contention his MS was service aggravated beyond the natural progression of the disease. The Board agrees with the previous Board's decision finding no evidence the applicant had any medical or mental health conditions that warranted processing through the Air Force DES at the time of the applicant's discharge. Physical and psychological stress may have temporarily exacerbated his MS symptoms during BMT but the Board finds the applicant's MS was not permanently service aggravated beyond the natural progression of the disease. The Board notes the additional evidence submitted by the applicant, the sworn statements and the DVA appeal board decision; however, this additional evidence does not sway the Board to grant the applicant's request. The Board does not dispute the applicant experienced symptoms of his MS during BMT but does not find his MS was permanently service aggravated. Furthermore, the DVA and the military's DES operate under different laws and use different parameters to make medical determinations. The DVA is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length of time transpired since the date of discharge. Additionally, as to the applicant's contention he was not given a medical separation examination, medical separation examinations are not a requirement for traditional members being separated from the Reserve. Per AFI 36-3209, members may request a medical examination and should schedule the physical through the nearest active-duty medical facility. The Board finds no evidence the applicant requested or scheduled a medical examination before separation and was denied such. Therefore, the Board recommends against correcting the applicant's records. Regarding the applicant's claim the wrong regulation was cited by the AFBCMR and the discharge regulation should have been AFI 36-3209, not AFI 36-3208; the Board noted at the time the applicant was discharged, he was appropriately discharged with an honorable service characterization per AFI 36-3209; however, the statement in the remarks section indicating his ELS was uncharacterized was removed. Additionally, AFI 36-3208 also included members of the AFR as indicated in paragraph 1.6, contrary to the applicant's assertion this reference was incorrectly cited by the AFBCMR in its initial deliberation and opinion.

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-2021-00029-3 in Executive Session on 18 Jun 24, 25 Jun 24, and 30 May 25:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member
[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

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

Exhibit L: Record of Proceedings, w/ Exhibits A-K, dated 20 Oct 21 and 7 Feb 22.
Exhibit M: Application, DD Form 149, w/atchs, dated 10 May 23.
Exhibit N: Advisory Opinion, AFBCMR Medical Advisor, dated 3 May 24.
Exhibit O: Advisory Opinion, AFRBA Psychological Advisor, dated 10 May 24.
Exhibit P: Notification of Advisory, SAF/MRBC to Applicant, dated 16 May 24.
Exhibit Q: Applicant's Response, dated 21 May 24
Exhibit R: Letter, SAF MRBC (Liberal Consideration Supplemental Guidance), 3 Jun 24.
Exhibit S: Applicant's Response, dated 18 Jun 24.
Exhibit T: Applicant's Response, w/atchs, dated 31 Jan 25.
Exhibit U: Applicant's Response, w/atchs, dated 23 May 25.

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.

6/4/2025

X

[REDACTED]
Board Operations Manager, AFBCMR
Signed by: USAF

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