

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-00467

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His narrative reason for separation be changed from "Personality Disorder" to "Early Release to Attend School" and corresponding separation code from "JFX" to "HBF."

APPLICANT'S CONTENTIONS

He filed a Department of Defense (DoD) Inspector General (IG) complaint against his squadron after experiencing several months of a hostile work environment and a physical assault by his supervisor. After the investigation was completed and after he sought counseling for the mistreatment, he was offered an honorable discharge. However, as a form of reprisal for the IG complaint, he was told that his narrative reason for separation would not change or he would not be allowed to be discharged.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 24 May 99, the applicant was seen by the mental health clinic for a self-referral after stating he had intentionally taken a larger-than prescribed dose of medication in what he reported to be a suicidal gesture.

On 2 Jun 99, a military clinical psychologist concluded that the applicant had an adjustment disorder which was so severe that it significantly impaired his ability to function in the military environment.

On 16 Jun 99, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, with an honorable discharge. The discharge action was based on his diagnosis of adjustment disorder and the adverse effect his condition had on his duty performance.

On 18 Jun 99, the Staff Judge Advocate found the discharge action legally sufficient.

On an unknown date, the discharge authority directed the applicant be involuntarily discharged for adjustment disorder with an honorable service characterization.

On 23 Jun 99, the applicant received an honorable discharge with narrative reason for separation of "Personality Disorder" and separation code of "JFX." He was credited with 10 months and 5 days of total active service.

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

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 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 9 Jun 21, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

AIR FORCE EVALUATIONS

AFPC/DP2SSR recommends denying the application. The applicant's commander provided ample evidence to the Base Separations Authority (BSA) to support separation. The BSA received documentation from competent medical authorities indicating that the applicant had a condition that interfered with further military service. The BSA directed discharge as a result of

the information received by the medical authority. Based on review of the master of personnel records and the applicant's request, there is no error or injustice with the discharge processing.

The complete advisory opinion is at Exhibit D.

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request to change his narrative reason to "Early Release to Attend School" and separation code to "HBF." There was an error however, identified with his current narrative reason listed on his DD Form 214. The applicant was not discharged due to having a Personality Disorder but for an adjustment disorder. It is recommended to change his narrative reason to "Condition Not A Disability" and separation code to "JFV" to correct these errors. Changing his narrative reason to the correct condition of "adjustment disorder" may potentially make the applicant's situation worse due to confidentiality issues. Changing his narrative reason for separation to "Condition Not A Disability" would accurately reflect his unsuiting condition while maintaining his privacy. Changing his narrative reason for separation to "Secretarial Authority" is not recommended due to his history of exhibiting poor judgment, self-harming behaviors, and elevated safety risk during service. The applicant has not submitted any mental health records to support his safety risk has been mitigated and/or his mental health condition has achieved stabilization post-service for consideration. Therefore, a change to "Condition Not A Disability" is the most appropriate and accurate reason for his separation.

A review of the applicant's available records found no evidence to support any of his contentions — there was no evidence of physical assault from his supervisor, IG complaint, reprisals from his IG complaint, and/or seeking counseling due to mistreatment in his military records. The applicant had self-referred to the mental health clinic for counseling services, but his difficulties were related to having an inability to handle the demands of a security forces member, he disliked his career field and wanted to be released from his Air Force Specialty Code (AFSC). He struggled to cope with his situational stressor (security forces career field) leading him to intentionally misuse his prescription medication as a suicidal gesture. His inability to adapt to the military environment and his career field resulted with his administrative discharge. There was no error identified with his diagnosis and his administrative discharge recommendation for having an unsuiting mental health condition of an adjustment disorder. There was no evidence he was considered for premature discharge to attend school.

The Board may elect to apply liberal consideration to the applicant's request. The following are responses based on information presented 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 requests to change his narrative reason for separation from "Personality Disorder" to "Early Release to Attend School."

2. Did the condition exist or experience occur during military service? There is no evidence the applicant was given a diagnosis of Personality Disorder in service. He was however, given a diagnosis of another unsuiting mental condition of adjustment disorder and was the actual reason for his discharge. There was no evidence he was to be discharged early from service to attend school.

3. Does the condition or experience excuse or mitigate the discharge? The applicant's adjustment disorder not Personality Disorder was the cause and reason for his discharge. Both conditions result with an administrative discharge and so his discharge would remain the same. His condition or experience does not excuse or mitigate the discharge.

4. Does the condition or experience outweigh the discharge? There is no error identified with the applicant's administrative discharge; his condition or experience does not outweigh his original discharge.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 13 Dec 21 for comment (Exhibit F) but has received no response.

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 of the AFRBA Psychological Advisor and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the Board notes that at the time of the applicant's separation, the Department of Defense used "personality disorder" to describe separations for a variety of mental health disorders. However, in 2003, the Department approved a variety of more descriptive narrative reasons for separation that more appropriately describe the conditions which a member could be separated for. Therefore, while the applicant was appropriately issued a narrative reason for separation of "personality disorder" under the provisions of the governing directives in effect at the time, we do not believe it appropriate for the applicant to continue to suffer the stigma of "personality disorder" narrative reason for separation and, in the interest of justice, recommend that his records be corrected to reflect "Condition-Not A Disability." 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. Specifically, there is no evidence to support the applicant's contention he was released early to attend school. Therefore, the Board recommends correcting the applicant's records as indicated below.
4. The applicant also alleges he faced reprisal based on allegations addressed in an IG complaint. Based on the authority granted to this Board pursuant to 10 U.S.C. § 1034, the Board reviewed the complete evidence of record to reach our own independent determination of whether reprisal occurred. Based on our review, the Board concludes the applicant has failed to establish that his discharge was due to reprisal. Therefore, in the absence of persuasive evidence to the contrary, the Board does not find the applicant has been the victim of reprisal pursuant to 10 U.S.C. § 1034.
5. 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 pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that on 23 Jun 99, he was discharged with a narrative reason for separation of "Condition Not A Disability," and a separation code of "JFV."

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2021-00467 in Executive Session on 26 Jan 22:

- 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 15 Sep 20.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Liberal Consideration Guidance), dated 9 Jun 21.
- Exhibit D: Advisory Opinion, AFPC/DP2SSR, dated 9 Jun 21.
- Exhibit E: Advisory Opinion, AFBCMR Psychological Advisor, dated 22 Jun 21.
- Exhibit F: Notification of Advisories, SAF/MRBC to Applicant, dated 13 Dec 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

Board Operations Manager, AFBCMR