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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01135-2

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider his request to be upgraded from a general (under honorable conditions) discharge to an honorable, based on his Department of Veterans Affairs (DVA) service connection for anxiety and depression.

RESUME OF THE CASE

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

On 17 Mar 22, the Board considered and denied his request to upgrade his general (under honorable conditions) discharge to honorable, concluding he was not the victim of an error or injustice. The Board concurred with the opinion of the AFRBA Psychological Advisor, finding insufficient evidence the applicant had a mental health (MH) condition during his military service that would be considered a mitigating factor for the misconduct causing his discharge. The preponderance of the evidence did not substantiate the applicant's contentions. In the interest of justice, the Board considered upgrading the discharge based on an injustice; however, given the evidence presented, the Board found no basis to do so. Furthermore, the Board found the application of liberal consideration did not warrant relief.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Record of Proceedings and letter at Exhibit G.

On 2 Jan 23, the applicant requested reconsideration of his request for a discharge upgrade. He again contends his DVA disability rating (100 percent) for anxiety and depression very well aided in his general discharge. In support of his reconsideration request, the applicant submitted a copy of the first page of his DVA Rating Decision, dated 17 Oct 22.

The applicant's complete submission is at Exhibit H.

AFBCMR Docket Number BC-2021-01135-2

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Controlled by: SAF/MRB

CUI Categories: Work-Product

Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and the newly submitted evidence, and continues to find insufficient evidence to support the applicant's request for a discharge upgrade based on his MH condition. The new evidence did not provide any substantive information that would suggest his MH condition, including Generalized Anxiety Disorder (GAD) and Persistent Depressive Disorder (PDD), had a direct impact or was a contributing factor to his discharge. The applicant was discharged for engaging in a pattern of misconduct for failing to report to duty at the prescribed time on at least two different occasions, failing to make payment on his **Work-Product** account, writing at least three checks with insufficient funds, engaging in disorderly conduct by soaping the windows of another airman's vehicle, and failing to report to his dental appointment on two different occasions. He was also arrested for driving on a suspended driver's license, disorderly conduct, and assaulting his wife. Neither the applicant nor the letter from the DVA explained how his service-connected MH condition caused these acts of misconduct; or sufficiently demonstrated how his MH condition may excuse or mitigate his discharge for these reasons. He contends his GAD and PDD aided in his general discharge, but offered no additional or clarifying information for this belief. He did not discuss how these conditions caused him to be late to work, fail to make his dental appointments, fail to pay his debts and resolve financial problems, behave in a disorderly manner at least twice, drive on a suspended license, or assault his wife, etc. There is no evidence to support or confirm he had any MH condition, including GAD and PDD, during service; or he suffered emotional distress which impaired his judgment at the time of any of his misconduct. In his previous petition, the applicant stated he was ordered to receive MH treatment and attend alcohol classes during service. There continues to be no evidence submitted to corroborate this report. His service treatment records remain unavailable and were not submitted for review. Moreover, some of the applicant's documented misconduct, especially being arrested for disorderly conduct and assaulting his wife, were serious offenses. Even if he was able to demonstrate his MH condition caused these behaviors, it could not excuse his egregious misconduct. It appeared the applicant was diagnosed and developed GAD and PDD after service based on his DVA treatment records that were reviewed in the previous advisory. The applicant received a rating increase from the DVA for these conditions, but receiving service connection or an increase in disability rating does not necessarily or automatically demonstrate mitigation or causation of his numerous acts of misconduct and discharge. The DVA, under Title 38, United States Code, is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to the narrative reason for release from service, its impact upon a member's fitness to serve, or the length time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting disability ratings as the level of impairment from a given medical condition may improve or worsen over the veteran's lifetime. Therefore, the Psychological Advisor finds the applicant's contentions and newly submitted evidence to be insufficient and not compelling to overturn the previously rendered opinion regarding his MH condition. There is no error or injustice identified with his discharge from a MH perspective.

Liberal consideration was applied to the applicant's reconsideration request. The following are responses to the four questions from the Kurta Memorandum, albeit slightly revised from the previous advisory to include the new evidence from 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 been 100 percent disabled for GAD and PDD due to his military service and believes these conditions aided in his general discharge. He did not elaborate further on how these conditions caused his pattern of misconduct or may excuse or mitigate his discharge.

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

The applicant's service treatment records are still not available or submitted for review, so there are no objective records to substantiate his reported conditions of anxiety and depression or any other MH condition that had existed or occurred during his military service. He was diagnosed and given service connection for GAD and PDD several years after discharge by the DVA.

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

There is no evidence or records that the applicant's MH condition including GAD and PDD had a direct impact or was a contributing factor to his pattern of misconduct and subsequent discharge for this reason. The applicant's contentions and newly submitted evidence were found to be insufficient and unconvincing to demonstrate his MH condition may excuse or mitigate this discharge. Therefore, his MH condition or experience does not actually excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since his MH condition including GAD and PDD does not excuse or mitigate his discharge, his MH condition also does not outweigh his original discharge.

The complete advisory opinion is at Exhibit I.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 18 Jan 24 for comment (Exhibit J), 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 remains unconvinced the evidence presented demonstrates an error or injustice. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The new evidence did not provide any substantive information that would suggest his MH condition, including GAD and PDD, had a direct impact or was a contributing factor to his discharge. The applicant was discharged for engaging in a pattern of misconduct for failing to report to duty at the prescribed time on at least two different occasions, failing to make payments, writing at least three checks with insufficient funds, engaging in disorderly conduct, and failing to report to appointments on two different occasions. He was also arrested for driving on a suspended driver's license, disorderly conduct, and

assaulting his wife. Neither the applicant nor the submitted letter from the DVA explained how his service-connected MH condition caused these acts of misconduct; or sufficiently demonstrated how his MH condition may excuse or mitigate his discharge for these reasons. The Board is satisfied the application of liberal consideration does not warrant relief. Additionally, the Board considered upgrading the discharge based on an injustice; however, given the evidence presented, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's records.

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-2021-01135-2 in Executive Session on 5 Jun 24:

Work-Product	Panel Chair
Work-Product	Panel Member
Work-Product	Panel Member

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

- Exhibit G: Record of Proceedings, w/ Exhibits A-F, dated 17 Mar 22.
- Exhibit H: Application, DD Form 149, w/atchs, dated 2 Jan 23.
- Exhibit I: Advisory Opinion, AFRBA Psychological Advisor, dated 16 Jan 24.
- Exhibit J: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Jan 24.

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.

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Board Operations Manager, AFBCMR
Signed by: USAF