



**CUI//SP-MIL/SP-PRVCY**

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-01230

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

Her general (under honorable conditions) discharge be upgraded to honorable.

**APPLICANT'S CONTENTIONS**

Had she been able to separate after her accident, she would not have been in any trouble. She requested separation but there was a freeze in her career field. She was never able to recover or bounce back from her accident. She was mentally unstable which caused her to begin taking medication for depression. Sleep and depression wreaked havoc on her insomnia.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force airman basic (E-1).

On 7 Jun 95, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*. The specific reasons for the action were:

- a. On 25 Oct 94, she received a Letter of Reprimand (LOR) for failing to go to her appointed place of duty at the prescribed time.
- b. On 23 Nov 94, she received an Article 15 with suspended reduction in grade to Airman First Class (A1C) for disobeying a lawful order.
- c. On 23 Dec 94, she received counseling for writing a bad check.
- d. On 17 Mar 95, she received counseling for financial irresponsibility.
- e. On 4 April 95, she received a Vacation of Suspended Nonjudicial Punishment for failing to go to her appointed place of duty at the prescribed time. She was reduced in rank to A1C and placed on the Control Roster.
- f. On 24 May 95, she was court-martialed and convicted for showing disrespect and willfully disobeying a superior commissioned officer. She was sentenced to a reduction in grade to Airman Basic, forfeiture of \$500.00 pay, confinement for 14 days, and an additional 30 days hard labor without confinement.

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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
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On 15 Jun 95, the discharge authority directed the applicant be discharged for misconduct with a general discharge service characterization. Probation and rehabilitation was considered, but not offered.

On 19 Jun 95, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct" and she was credited with 10 years, 4 months, and 22 days of total active service.

On 19 May 00, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to her discharge.

On 5 Oct 00, the AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process.

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

**POST-SERVICE INFORMATION**

The applicant provided a Pentagon Force Protection Agency Personnel Security Clearance Verification memo, dated 20 Aug 21, that shows she was granted secret level access on 25 Oct 16 (Exhibit C). On 9 Mar 22, the Board sent the applicant a request for any additional post-service information she may wish the Board to consider; however, she has not replied (Exhibit F).

**APPLICABLE 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?

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- 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 Mar 22, the Board staff provided the applicant a copy of the liberal consideration and clemency guidance (Exhibit F).

AFI 36-3208, *Administrative Separation of Airmen*, describes the types of service characterization:

**Honorable.** The quality of the airman's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate.

**Under Honorable Conditions (General).** If an airman's service has been honest and faithful, this characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.

**AIR FORCE EVALUATION**

The AFBCMR Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request to have her service characterization changed to honorable. The applicant contends had she been separated following her accident, she would not have been in any trouble. She was unable to bounce back from her accident and suffered from sleep and depression, had to take medication for depression and insomnia, and was mentally unstable following her accident. The applicant did not clarify when her accident occurred, but it was presumably in 1992 as referenced to her motor vehicle accident according to her Department of Veterans Affairs (DVA) records. There were no records she had PTSD or was given a diagnosis of PTSD during service. She received psychiatric hospitalization twice during service in 1989 and 1990 respectively, which had occurred years before her alleged car accident. There is evidence her mental health condition existed during her 10-years of service but no evidence it had occurred at or near the time of her misconduct as mental health symptoms typically recur. Due to the lack of or absence of her objective service treatment records, the psychological advisor is unable to assess whether her mental health condition could cause, excuse, or mitigate her discharge. Her post-service DVA records were found to be insufficient to support her request and did not contain information to explain her behaviors during service. Presumption of regularity is applied and there is no evidence of an error or injustice with her discharge.

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Liberal consideration is applied to the applicant's request due to the contention of a mental health condition. The following are answers to the four pertinent questions from the liberal consideration policy based on the available records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge? The applicant contends she suffered from sleep issues, depression, and mental instability following her accident during service, and she was given service connection compensation for PTSD by the DVA. She did not clarify when her accident had occurred and how it affected her misconduct and discharge.
2. Did the condition exist or experience occur during military service? There was no evidence of any accident or MVA in her military records. Her service treatment records were unavailable, but there were records from her leadership reporting she had been hospitalized for a suicide attempt and personality disorder in 1989 and 1990 respectively. These hospitalizations had occurred presumably before her MVA in 1992 as reported in her VA records and several years prior to her discharge. There were no records reporting the applicant had any confirmed or verified mental health conditions, issues, or treatment near or at the time of her misconduct and discharge due to lack of records. There was no evidence she had PTSD or was diagnosed with PTSD during service.
3. Does the condition or experience excuse or mitigate the discharge? Since there was no evidence she had any mental health conditions at or near the time of her misconduct and discharge, her condition or experience (MVA) does not excuse or mitigate her discharge.
4. Does the condition or experience outweigh the discharge? Since her mental health condition or experience does not excuse or mitigate her discharge, her condition or experience also does not outweigh her 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 25 Feb 22 for comment (Exhibit E) but has received no response.

**FINDINGS AND CONCLUSION**

1. The application was timely filed. Given the requirement for passage of time, all clemency requests are technically untimely. However, it would be illogical to deny a clemency application as untimely, since the Board typically looks for over 15 years of good conduct post-service. Therefore, the Board declines to assert the three-year limitation period established by 10 U.S.C. § 1552(b).
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 rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Liberal consideration was applied to the applicant's request due to the contention of a mental health condition; however, there were no records she had PTSD or was given a diagnosis of PTSD during service. She received psychiatric hospitalization twice during service in 1989 and 1990

respectively, which had occurred years before her alleged car accident. There is evidence her mental health condition existed during her 10-years of service but no evidence it had occurred at or near the time of her misconduct as mental health symptoms typically recur. There is no direct impact on her behaviors and misconduct resulting with her discharge and her condition or experience does not excuse, mitigate, or outweigh her discharge. In the interest of justice, the Board considered upgrading the discharge based on clemency; however, given the evidence presented, and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision. The applicant may provide post-service evidence depicting her current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization due to clemency.

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-2021-01230 in Executive Session on 22 Jun 22:

*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 A: Application, DD Form 149, w/atchs, dated 11 Dec 20.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Applicant Clearance Verification, dated 20 Aug 21.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 24 Feb 22.
- Exhibit E: Letter, SAF/MRBC, dated 25 Feb 22.
- Exhibit F: Applicant Notification of Clarifying Guidance Memos, dated 9 Mar 22.

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.

3/14/2023

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF