



**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:**

*Work-Product*

**DOCKET NUMBER:** BC-2021-01866

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

His honorable discharge be changed to a medical separation.

**APPLICANT'S CONTENTIONS**

The records by his Air Force psychiatrist, resulting in his discharge, was not in his best interest. He suffered his entire life with his illness and the psychiatrist was not honest with him. The military treated the mentally ill terrible, he did not receive treatment for his condition, and he should have been sent to a military hospital or assigned to a Department of Veteran's Affairs (DVA) clinic where he could have gotten therapy from the date of discharge.

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 4 Apr 73, DD Form 4, *Enlistment Contract - Armed Forces of the United States*, indicates the applicant enlisted in the Regular Air Force for a period of four years.

On 21 Oct 75, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFM 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*. The specific reasons for the action was failure to meet acceptable standards of duty performance, apathy, defective attitude and financial irresponsibility.

The 4th Indorsement (undated) to the commander recommendation indicates the applicant did not wish to submit a rebuttal and did not wish to participate in the Probation and Rehabilitation Program.

On 4 Nov 75, the discharge authority directed the applicant be honorably discharged. Probation and rehabilitation was considered, but not offered.

On 5 Nov 75, DD Form 214, *Report of Separation from Active Duty*, indicates the applicant received an honorable discharge. He was credited with 2 years, 7 months, and 2 days of total active service.

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

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Controlled by: SAF/MRB  
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## **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 2 Aug 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

## **AIR FORCE EVALUATION**

The AFRBA Psychological Advisor finds insufficient evidence to support the applicant's request for a medical separation. The applicant's service treatment records were not available for review and therefore, there were no records of any mental health evaluation, treatment, or diagnosis he may have received while in the service. There were also no medical records by the Air Force Psychiatrist as claimed by the applicant. The only available medical record was his separation physical performed by his medical provider reporting he did not have any mental health conditions, and he did not meet criteria to be referred to the Medical Evaluation Board for a possible medical discharge. During his separation physical, he also denied having any mental health conditions. There were vague reports from his leadership of observed nervousness, inattention problems, and personal problems affecting his work performance, but these observations did not indicate he had a mental health condition or disorder. A review of his post service VA records revealed he has been diagnosed and treated for bipolar disorder from the VA. The applicant had reported to his VA psychiatrist he first experienced mental health issues prior service at the age of 17 and he began to develop depressive symptoms when he was deployed in the military and was treated by Klonopin and Amitriptyline for bipolar disorder during service. There were no records to substantiate any of these claims and reports to his VA psychiatrist. He also received inpatient

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hospitalization for possibly bipolar symptoms several years post service in the 1980's. The symptoms the applicant reported to his VA psychiatrist, in which the psychiatrist had expressed skepticism, were not consistent to his presentation and functioning during service. It appeared through his records his mental health condition of bipolar disorder began post service and aggravated by his post service stressors. There was no evidence he experienced any depression or bipolar symptoms during the service. The applicant reported he began to have mental health issues at the age of 17, but there was no evidence his military duties exacerbated or aggravated his pre-existing condition. There was no evidence he had any potentially unfitting mental health conditions to include depression or bipolar disorder that would possibly result with a medical discharge, he was never placed on a duty limiting conditions profile for his mental health condition, and he was never deemed not worldwide qualified. The Psychological Advisor finds no error or injustice with his discharge.

The Board may consider applying liberal consideration to the applicant's request. The following are answers to the four questions from the 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 he should receive a medical discharge. He did not clarify the mental health condition he should have received a medical discharge for and how this condition affected his functioning in the service and his discharge.

2. Did the condition exist or experience occur during military service?  
The applicant's entire service treatment records were not available for review and he also did not submit them for review. There is no evidence he had any mental health conditions during service according to his available separation physical medical examination report. The applicant was diagnosed with depression and bipolar disorder decades post service by the VA and no evidence these same conditions developed, existed, or occurred during service.

3. Does the condition or experience excuse or mitigate the discharge?  
There is no evidence the applicant had any unfitting mental health conditions to include depression or bipolar disorder during service that would meet criteria for a medical discharge, disability or retirement. There is no error or injustice identified with his discharge, and his condition or experience does not mitigate his discharge.

4. Does the condition or experience outweigh the discharge?  
Since there is no evidence he had any unfitting mental health conditions, his condition or experience also does not outweigh his original administrative discharge.

The complete advisory opinion is at Exhibit D.

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

The Board sent a copy of the advisory opinion to the applicant on 18 Jan 22 and 11 Feb 22 for comment (Exhibit E), and the applicant replied on 24, 27, 28 Feb and 2 Mar 22. In his responses, the applicant contends he had a perfect record with no disciplinary actions. Further, he states he visited the DVA 10 to 15 times towards the end of his career. Finally, he states in 1982, a DVA doctor did extensive research on the Air Force psychiatrist notes, found several oblivious mistakes and recommended that he refile his claim.

The applicant's complete response is at Exhibit F.

**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. As noted by the AFRBA Psychological Advisor, there is no evidence he had any potentially unfitting mental health conditions to include depression or bipolar disorder that would possibly result with a medical discharge. As such, the Board concluded there was insufficient evidence to support relief through liberal consideration or clemency. Therefore, the Board recommends against correcting the applicant's records.
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 (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2021-01866 in Executive Session on 24 Aug 22:

 <i>Work-Product</i>	Panel Chair
 <i>Work-Product</i>	, Panel Member
 <i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 13 Apr 21.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Liberal Consideration Guidance), dated 2 Aug 22.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 5 Jan 22.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Jan 22 and 11 Feb 22.
- Exhibit F: Applicant's Response, w/atchs, dated 24, 27, 28 Feb and 2 Mar 22.

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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.

5/12/2023

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Board Operations Manager, AFBCMR  
Signed by: USAF