

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-02253

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

His Reentry (RE) code be corrected.

### APPLICANT'S CONTENTIONS

He wants his RE code corrected so he can rejoin the military. During his service, he had difficulties adjusting to being away from home. He had sleep issues causing him to be late for work and felt depressed. He was counseled several times for being late for work and was referred to a psychologist. He was prescribed medication to ease depression and anxiety and refused to take them. He takes full responsibility for his actions and has learned so much after being honorably discharged. In support of his request, the applicant provides a personal statement, a psychological evaluation, education certificates and character references.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

Between 17 Jan 18 and 22 Jan 18, the applicant received a Letter of Counseling and a Letter of Reprimand for poor punctuality and lack of integrity.

On 7 Feb 18, a staff psychiatrist diagnosed the applicant with Adjustment Disorder with Mixed Disturbance of Emotions and Conduct. He was also diagnosed with Impulse Control Disorder. Both of the conditions were so severe that the applicant's ability to function in the military environment was significantly impaired. The psychiatrist recommended he be administratively separated.

On 13 Mar 18, the applicant was notified of his commander's intent to recommend he be discharged from the Air Force under the provisions of AFPD-36-32, *Military Retirement and Separations*, and AFI 36-3208, *Administrative Separation of Airman*, paragraph 5.11.2, for Conditions that Interfere with Military Service- Personality Disorder or Mental Disorder Not Constituting a Physical Disability. The applicant was informed the action would result with an honorable discharge and if discharged he would be ineligible for reenlistment in the Air Force. The applicant was advised of his rights to consult counsel and submitted statements on his own behalf for consideration.

On 16 Mar 18, the applicant acknowledged receipt and indicated that he consulted counsel. On 19 March 18, the staff judge advocate found the discharge to be legally sufficient and recommended the applicant receive an honorable discharge without probation and rehabilitation.

On 20 Mar 18, the discharge authority directed the applicant be separated with an honorable discharge and does not recommend probation and rehabilitation.

On 28 Mar 18, the applicant received an honorable discharge, with a narrative reason for separation as "Adjustment Disorder." He was credited with 8 months and 26 days of total active service. His RE code is 2K which denotes "Has been formally notified by commander of involuntary separation action."

On 13 Aug 20, the Air Force Discharge Review Board (AFDRB) voted unanimously to deny the applicant's request to change his reenlistment eligibility code to 3K. However, the AFDRB voted unanimously to approve a change of his narrative reason for separation to reflect "Secretarial Authority."

On 28 Aug 20, the applicant was issued a new DD Form 214 changing the narrative reason for separation of "Adjustment Disorder" and the corresponding separation code of JFY to reflect "Secretarial Authority" with the corresponding separation code of JFF.

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

#### **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 9 Mar 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit G).

## **AIR FORCE EVALUATION**

AFPC/DP2SSM recommends denying the application. There is no evidence to support the applicant's request for a more favorable RE code. The applicant was given an erroneous RE code of 2K - (Has been formally notified by commander of involuntary separation action) on his DD Form 214. The applicant's correct RE code is 2C - (Involuntarily separated with an honorable discharge; or entry level separation without characterization of service), based on his involuntary separation with an honorable character of service. When his involuntary discharge was approved with an honorable character of service, his RE code should have been changed from 2K to reflect 2C. Unless otherwise directed by the Board, please send the case to the DD Form 214 OPR for correction of RE code to 2C.

The complete advisory opinion is at Exhibit C.

## **ADDITIONAL AIR FORCE EVALUATION**

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for the desired changes to his RE code. The records show that he clearly had problems adjusting to the military causing him to feel depressed, isolated, and had suicidal thoughts. To manage his problems, he exercised maladaptive behaviors such as pornography, which had exacerbated his problems causing his misconduct resulting in disciplinary actions. He then was diagnosed with Adjustment Disorder with Mixed Disturbance of Emotions and Conduct and Impulse Control Disorder that affected his ability to function properly in a military environment that led to his discharge. Post service, the applicant received a psychological evaluation from a civilian provider declaring he does not have any mental disorders and he is psychologically stable to support his request to reenter the military. Although he was found suitable for duty, the evaluation did not address the longstanding issues with pornography, adjusting to the military environment, and suicidal ideation. The applicant's prior mental health conditions are considered to be disqualifying conditions. Therefore, the applicant's request for a change to his records/reentry code could not be supported, and there was no evidence of any error or injustice with his discharge.

The Board may elect to apply liberal consideration to the applicant's petition. The applicant was discharged from service for having unsuiting conditions of Adjustment Disorder with Mixed Disturbance of Emotions and Conduct and Impulse Control Disorder. There is clear evidence the applicant had difficulties adjusting to the military environment and had coped with maladaptive behaviors resulting in behavioral and misconduct issues. These behaviors were reflective in his assigned diagnoses and are considered unsuiting for military service. His mental health condition may have caused his discharge, but they do not excuse or mitigate his discharge. Since his mental health conditions do not excuse or mitigate his discharge, they also do not outweigh his original discharge. There is no error or injustice identified with this 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 3 Feb 22 for comment (Exhibit E), and the applicant replied on 24 Feb 22. In his response, the applicant disagreed with certain

topics in the advisory opinions such as suicidal thoughts and suicide attempt, receiving money from his peers and stating that he still suffers from the conditions. The applicant discusses the psychology of the teen mind and the adolescent brain. The applicant contends he was not mature enough to secure his own finances and take responsibility for his actions and behaviors. He has matured enough to reenlist in the military.

The applicant's complete response is at Exhibit F.

## **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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP2SSM and the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Finally, the Board is satisfied that the application of liberal consideration does not warrant relief. 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 (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-02253 in Executive Session on 24 Mar 22:

, Panel Chair  
, Panel Member  
, Panel Member

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

- Exhibit A: Application, DD Form 149, w atchs, dated 23 Jun 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2SSM, dated 5 Aug 21.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 16 Sep 21.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Feb 22.
- Exhibit F: Applicant's Response, dated 24 Feb 22.
- Exhibit G: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), 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.

X

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Board Operations Manager, AFBCMR