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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02421

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His narrative reason for separation of "Personality Disorder" be changed to a medical discharge.

APPLICANT'S CONTENTIONS

He was not aware he had a mental health condition until he started having some breakdowns in the military to include suicide attempts. He served almost seven years in the Air Force and planned on making the military his career. His service treatment records would not reflect his mental health condition as a clinical diagnosis, but had he been treated properly with treatment and medication, the condition could have been corrected. He has now received the proper care and clinical diagnosis of bipolar depression. He has been doing the same job now that he did in the military working with Boeing and just needed proper medical care.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 10 Nov 98, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.11.1 for a mental disorder. The specific reason for the action was that on or about 16 Oct 98, the applicant was diagnosed with a mental disorder, specifically, a personality disorder not otherwise specified (NOS) which was found so severe that it significantly impaired his ability to function effectively in a military environment.

On 30 Nov 98, the Chief of Military Justice found the discharge action legally sufficient.

On 4 Dec 98, the discharge authority directed the applicant be discharged for a mental disorder, with an honorable service characterization. Probation and rehabilitation was considered, but not offered.

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On 16 Jan 99, the applicant received an honorable discharge. His narrative reason for separation is "Personality Disorder" and he was credited with 6 years, 9 months, and 25 days of total active service.

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

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 paragraphs 6 and 7 of the Wilkie memorandum.

On 4 Aug 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit E).

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request to correct his narrative reason for separation to a medical discharge; however, to protect his privacy and this sensitive information, it is recommended to change his narrative reason for separation to "Condition, Not a Disability." This narrative reason is recommended under liberal consideration.

The applicant's entire service treatment records were not available or submitted by the applicant for review and without these records, it is difficult to substantiate his contention. The available record, albeit a vague and brief mental health evaluation, finds there was no evidence or indication the applicant had bipolar disorder or symptoms during service. It appeared he was diagnosed with bipolar disorder well after discharge. There was no information provided for when he was diagnosed with bipolar as there was a 22-year gap between his discharge date and the submitted treatment note from his post-service psychiatrist. It is possible he may have developed these symptoms during this time frame or during service, but there was no information provided to corroborate either of these impressions. The applicant stated he experienced some breakdowns during service to include suicide attempts but did not submit any records to verify his claims. It is plausible these experiences could be symptoms of bipolar disorder but also could meet diagnostic criteria for another mental health condition, especially in the early developmental stages of a condition. Many mental health conditions to include personality disorders share similar symptoms and bipolar disorder takes time to become clear. It appeared the symptoms that he was exhibiting at the time of service was congruent to a personality disorder. There was no evidence provided to dispute this diagnosis or that this disorder was made in error. His personality disorder was unsuiting for continued military service, and his military provider reported he did not have any unfitting mental health conditions meeting criteria to be processed through medical channels for a medical discharge. There was no evidence he was placed on a duty limiting condition profile or was deemed not worldwide qualified due to his mental health condition and no information was provided by his leadership of any observations his mental health condition had impaired his ability to reasonably perform his military duties in accordance to his office, grade, rank, or rating. Furthermore, there was no evidence the applicant's condition of bipolar disorder caused his discharge.

Liberal consideration is applied to the applicant's request due to the contention of a mental health condition. The following are responses to the four questions from the Kurta memorandum 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 was not aware he had a mental health condition until he started having some breakdowns to include suicide attempts during service. He has been diagnosed with bipolar disorder post-service and receiving proper care and treatment for this condition. He is requesting a medical discharge.

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

There is no evidence the applicant experienced or was diagnosed with bipolar disorder during service. He was diagnosed with bipolar disorder and treated for this condition over 20 years post-discharge. He was diagnosed with personality disorder NOS during service which was the reason for his discharge.

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

There is no evidence the applicant's condition of bipolar disorder caused his discharge and no evidence he had any unfitting mental health conditions meeting criteria for a medical discharge. He was discharged for having an unsuiting mental health condition and his discharge was found to be appropriate. His mental health condition does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

There is no error or injustice identified with the applicant's administrative discharge for having an unsuiting personality disorder, and his mental health condition does not outweigh his original discharge.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 4 Aug 22 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.

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, due to possible adverse negative consequences of the applicant's narrative reason for separation, the Board recognizes the potential stigma of "Personality Disorder" listed on his DD Form 214 which is sufficient to warrant a change to his records. Therefore, the Board recommends correcting the applicant's records as indicated below. 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. Liberal consideration was applied to the applicant's request; however, the Board finds that the applicant's mental health condition

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did not impair his ability to reasonably perform his military duties in accordance to his office, grade, rank, or rating nor was there evidence his bipolar disorder caused his discharge. He was found to have a condition that was unsuited for continued military service but not an unfitting condition meeting criteria to be processed through medical channels for a medical discharge.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show his DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 26, *Separation Code* be changed to “JFV” and Block 28, *Narrative Reason for Separation* be changed to “Condition, Not A Disability,” under the provisions of AFI 36-3208, *Administrative Separation of Airmen*.

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 (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2021-02421 in Executive Session on 26 Oct 22:

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Panel Chair

Panel Member

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Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 17 Jun 21.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 1 Aug 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 Aug 22.

Exhibit E: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 4 Aug 22.

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.

8/30/2023

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Board Operations Manager, AFBCMR
Signed by: USAF

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