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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02773

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her uncharacterized character of service be changed on her DD Form 214, *Certificate of Release or Discharge from Active Duty*.

APPLICANT'S CONTENTIONS

She was unjustly labeled. She was responsible for all her squadron's problems, which led to multiple issues for her.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 6 Oct 03, the applicant's commander recommended she be discharged from the Air Force, under the provisions of AFD 36-32, *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen*, chapter 5, section B, Involuntary Convenience of the Government, paragraph 5.11, Conditions that Interfere with Military Service, specifically, paragraph 5.11.9, under Mental Disorders. The specific reason for the action was a mental health diagnosis.

According to the applicant's Basic Training Record dated 19 Sep 03, she was admitted to a medical center to be evaluated for psychiatric issues. As a result, she was placed on an administrative hold.

On 24 Sep 03, the applicant was diagnosed with Schizoaffective Disorder, Bipolar Type. It was recommended that she receive an Entry Level Separation (ELS).

On 1 Oct 03, the applicant was referred for an emergency mental health evaluation as a result of suicidal ideation.

On 20 Oct 03, the applicant acknowledged the discharge recommendation and that she would not be entitled to any disability, retirement, or severance pay.

On 21 Oct 03, the discharge action was found to be legally sufficient.

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

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

On 22 Oct 03, the discharge authority directed the applicant be discharged with an ELS for Mental Disorders, with an “Uncharacterized” service characterization.

On 24 Oct 03, the applicant received an ELS. Her narrative reason for separation is “Personality Disorder.” She was credited with 1 month and 16 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.

POST-SERVICE INFORMATION

On 6 Jul 22, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI); however, she has not replied.

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 the supplemental guidance, paragraphs 6 and 7.

On 6 Jul 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit E).

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.

Under Other than Honorable Conditions. When basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial. Examples of such behavior, acts, or omissions include, but are not limited to:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior - subordinate relationships.
- Acts or omissions that endanger the security of the United States.
- Acts or omissions that endanger the health and welfare of other members of the Air Force.
- Deliberate acts or omissions that seriously endanger the health and safety of other persons.
- Rape, sexual assault, aggravated sexual contact, abusive sexual contact, rape of a child, sexual assault of a child, sexual abuse of a child, forcible sodomy and attempts to commit these offenses.

Entry Level Separation (ELS). Members are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service following a break of more than 92 days of active service.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds insufficient evidence to support the applicant's request for an upgrade of her character of service. The applicant's objective military records revealed she had endorsed having suicidal thoughts to a chaplain, which led to her being admitted to the inpatient psychiatric unit for stabilization. Her mental health evaluation yielded a diagnosis of Schizoaffective Disorder, Bipolar Type and a recommendation for ELS. She was deemed to be at elevated safety risk and unsuited for continued military service. The applicant had disputed the diagnosis during service and had requested to receive a second opinion. There were no records of this requested evaluation and also no records exist to substantiate her diagnosis was made in error. Thus, presumption of regularity is applied and her diagnosis is considered to be valid.

In terms of her request for a change to her character of service, she received an “Uncharacterized” service characterization because she served less than 180 days of continuous days of service. This characterization is in accordance to the current regulation of AFI 36-3208 and as such, no error or injustice was identified with her discharge process from service.

Although there was no error identified with her discharge, the Psychological Advisor found an error pertaining to the applicant’s current DD Form 214. The narrative reason on her DD Form 214 lists “Personality Disorder.” The applicant was never diagnosed with a personality disorder during service but was diagnosed with Schizoaffective Disorder, Bipolar Type, which was also considered a disqualifying condition resulting with an administrative discharge under ELS. It appeared the personality disorder narrative was made from an administrative error. To correct this error, the Psychological Advisor recommends the Board change her narrative reason to “Condition Not a Disability,” which is consistent to her original and true reason for discharge. This narrative reason is also appropriate per liberal consideration guidance.

Liberal consideration is applied to the applicant’s petition. The following are responses based on the available records to the four questions in the policy:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant contends her character of service was “unjustly labeled” and she was responsible for all of her squadron’s problems, which led to multiple issues for her. The applicant made no explicit contentions regarding her mental health condition from service.
2. Did the condition exist or experience occur during military service?
The applicant’s military records revealed she had endorsed having suicidal ideation to a chaplain, which led her to being admitted to inpatient psychiatric hospitalization at Wilford Hall Medical Center (WHMC). She was given a diagnosis of Schizoaffective Disorder, Bipolar Type from evaluation at WHMC and a recommendation for ELS discharge. There is no evidence she was given any personality disorders diagnosis during service.
3. Does the condition or experience excuse or mitigate the discharge?
The applicant’s mental health condition of Schizoaffective Disorder, Bipolar Type, and not a personality disorder, was considered to be disqualifying for continued service and was the cause and reason for her discharge. There is no error identified with her mental disorder diagnosis given in service and her condition does not excuse or mitigate her discharge.
4. Does the condition or experience outweigh the discharge?
Since her condition does not excuse or mitigate her discharge, her condition also does not outweigh her 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 16 Feb 22 for comment (Exhibit D) 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 to warrant changing her character of service on her DD Form 214. 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. The Board is satisfied that the application of liberal consideration does not warrant changing her character of service. As noted by the Psychological Advisor, the applicant was never diagnosed with a personality disorder during service, but was diagnosed with Schizoaffective Disorder, Bipolar Type. In order to correct this error, the Board agrees with the Psychological Advisor to change the applicant's narrative reason for separation to "Condition Not a Disability." Accordingly, the Board recommends correcting the applicant's record to the extent indicated below.
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 pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that at the time of her 24 Oct 03 discharge, her narrative reason for separation was "Condition Not a Disability" with the corresponding separation code of "JFV."

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-2021-02773 in Executive Session on 27 Jul 22:

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

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

Exhibit A: Application, DD Form 149, dated 8 Jan 21.

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Exhibit B: Documentary Evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 31 Jan 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Feb 22.
Exhibit E: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 6 July 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.

5/12/2023

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Board Operations Manager, AFBCMR

Signed by: USAF

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