



**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-2022-00467

*Attorney-Client*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

He be given a medical separation or a medical board hearing.

**APPLICANT'S CONTENTIONS**

He has been diagnosed with Post-Traumatic Stress Disorder (PTSD) from war trauma and has received a 70 percent disability rating from the Department of Veterans Affairs (DVA). He was suffering from this condition at the time of his discharge and did not receive a medical board. There was a delay in his filing because of his mental health condition and he has been trying to get back his ability to think, function, and be part of society.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air National Guard (ANG) senior airman (E-4).

On 5 Jun 06, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged from the Army in the grade of specialist (E-4) after serving four years of active service. He was discharged, with a narrative reason for separation of "Release from Active Duty."

On 31 Aug 15, NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, reflects the applicant was honorably discharged from the ANG after serving 13 years, 2 months, and 26 days of total service for pay. He was discharged, with a narrative reason for separation of "Alcohol Abuse Rehabilitation Failure."

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

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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

**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 23 Aug 21, 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 for the desired changes to his record. A review of the applicant's medical records finds he was initially diagnosed with PTSD by the DVA in 2010 coinciding with his time in the Air Force; however, the onset and cause of his PTSD condition was from his combat deployment experiences with the Army. His PTSD condition is considered a prior-service condition or impairment. He reported to the DVA he began drinking and experiencing PTSD symptoms following his deployment in 2006. He would drink to cope with his PTSD symptoms and family problems and had received multiple iterations of treatment for his co-occurring conditions (alcohol dependency and PTSD) from the DVA, military, and civilian treatment facilities throughout the years. Although his co-occurring conditions had progressed and worsened through time affecting his functioning in the Air Force such as failure to show to drill weekend because of alcohol consumption and resulting with his discharge for alcohol and drug abuse prevention and treatment (ADAPT) rehabilitation failure, there was no evidence his military duties/service with the Air Force had permanently aggravated his pre-existing mental health condition. He reported to the DVA his drill weekend would trigger panic and nightmare episodes, but this is an exacerbation and not aggravation of his symptoms. His symptoms would return to baseline after drill weekend. His personal and family problems appeared to have aggravated his condition per his DVA treatment records. The applicant was determined to be fit for duty when he transferred from the Army to the Air Force in 2006 because he was able to meet accession standards, but he was never found unfit for duty by the Air Force. He was placed on a temporary duty limiting code (DLC) profile and was deemed not worldwide qualified (WWQ) when he was enrolled in the ADAPT program, but this is standard operating procedure while he was undergoing alcohol dependency treatment. Alcohol dependency is considered an unsuiting condition meeting criteria for an administrative discharge, which was the type of discharge he had received. There was no evidence the applicant had any unfitting mental health conditions to include PTSD that would meet criteria for a referral to the Medical Evaluation Board (MEB) for a possible medical discharge. He was evaluated by a military psychiatrist and the psychiatrist found his symptoms were not clear due to his inconsistent reporting but nevertheless, he was determined to be fit for duty. He was recommended for follow-up with the psychiatrist and to receive therapy services for diagnostic clarification, but he never followed-up with the recommendations. There were no records he was placed on a DLC or deemed not WWQ due to his mental health condition such as anxiety or PTSD and no records from his leadership his mental health condition or PTSD had impacted his ability to reasonably perform his duties in accordance to his office, grade, rank, or rating. Additionally, since the applicant was in the ANG, there was no evidence the applicant received any favorable line of duty (LOD) determination for his mental health condition. Hypothetically, should he had applied and received an LOD review for his mental health condition, his LOD result would be "Not in Line of Duty and Not Service Aggravated." Again, this designation is because his PTSD condition was established and developed from his Army service and no evidence his prior service condition was aggravated by his Air Force service. Another hypothetical situation is if his condition of PTSD was found unfitting by the Air Force and he was

processed through the MEB and Disability Evaluation System (DES), his condition would be non-ratable and non-compensable because he did not have an In LOD determination that is required for a rating and compensation. These scenarios are speculative as there was no evidence of any unfitting mental health condition nor LOD determination.

The applicant was discharged from the Air Force for alcohol abuse rehabilitation failure because he had tested positive twice for alcohol from random drug tests; ADAPT requires that all participants abstain from all mood-altering substances while enrolled in the program. He was also reported to have made multiple false statements about his alcohol use and was unwilling to comply with the program rules. His reason for discharge was in accordance to the program's policy and Air Force's regulation. His alcohol dependency issues although was initially secondary to his PTSD (he used alcohol to cope), his alcohol dependency eventually became his primary problem causing impairments to his occupational and personal functioning. His administrative discharge for alcohol abuse rehabilitation failure was appropriate and thus, the Psychological Advisor finds no error or injustice with his discharge and insufficient evidence has been presented to support his request for a medical discharge.

For awareness, the applicant is receiving a 70 percent disability rating for PTSD from the DVA. The military's DES, established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the "snapshot" time of separation and not based on post-service progression of disease or injury. To the contrary, the DVA, operating under a different set of law, Title 38, U.S.C., is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating awards as the level of impairment from a given medical condition may vary [improve or worsen] over the lifetime of the veteran.

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 in 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 is requesting a medical discharge for PTSD because this condition was caused by war trauma and he has been granted a 70 percent rating from the DVA.
2. Did the condition exist or experience occur during military service?  
There is evidence the applicant was given a diagnosis of PTSD caused by his deployment experiences from his prior Army service during his Air Force service. He had received treatment for PTSD and alcohol dependency from the DVA, alcohol treatment from ADAPT, and a psychiatric evaluation from a military psychiatrist during military service.
3. Does the condition or experience excuse or mitigate the discharge?

The applicant's condition of PTSD is considered a prior service impairment as it began and was caused by his service with the Army. There was no evidence his Air Force service permanently aggravated his prior service condition. There was also no evidence his condition of PTSD was found unfitting for continued military service and no evidence he received a LOD determination for this condition. Therefore, his condition or experience does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since there is no evidence his mental health condition or experience may excuse or mitigate his discharge, his condition or experience also does not outweigh his original administrative 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 1 Aug 22 for comment (Exhibit D), but has received no response.

### **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 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, since there is no evidence his mental health condition of PTSD was found unfitting for continued military service, his condition or experience does not excuse, mitigate, or outweigh his administrative discharge. His PTSD was found to have existed prior to his time in the Air National Guard, during his Army Service; however, the Board finds no evidence his prior service condition was aggravated by his Air Force service. The Board finds no error in his administrative discharged for alcohol abuse rehabilitation failure which caused impairments to his occupational and personal functioning. The Board took note of the applicant's disability ratings from the DVA but did not find this evidence compelling to warrant relief. The military's DES established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries, which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the "snapshot" time of separation and not based on post-service progression of disease or injury to which the DVA can offer compensation. Therefore, the Board recommends against correcting the applicant's records.

**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-2022-00467 in Executive Session on 26 Oct 22:

<i>Attorney-Client</i>	Panel Chair
	Panel Member
<i>Attorney-Client</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, dated 17 Aug 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 27 Jul 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Aug 22.
- Exhibit E: Letter, SAF/MRBC, w/atchs (Liberal Consideration Guidance), dated 23 Aug 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

*Attorney-Client*

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Board Operations Manager, AFBCMR  
Signed by: USAF