



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2022-00699

COUNSEL:

Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His Uncharacterized Entry Level Separation (ELS) be upgraded to an honorable discharge.

APPLICANT'S CONTENTIONS

He reported as ordered after in-depth pursuit, it was discovered to be a 2C [sic] honorable discharge with involuntary "circu." [sic]

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 20 Apr 88, the applicant's commander recommended he be discharged from the Air Force, with an Entry Level Separation (ELS), under the provisions of AFR 39-10, *Administrative Separation of Airmen*, paragraph 5-22b (2), for failure to adapt to the military environment. The specific reasons for the action were:

- a. On or about 3 Mar 88, the applicant entered into a training program in Course Number 3ABR42735, Airframe Repair Specialist.
- b. On or about 23 Mar 88 and 28 Mar 88, the applicant had to be removed from the classroom because of his emotional stress.
- c. On or about 5 Apr 88, the applicant failed to satisfactorily complete his homework assignments for the same course.
- d. On 13 Apr 88, the applicant was evaluated by a Mental Health Clinic Provider who stated the applicant lacked motivation and was unwilling to continue in the Air Force.

On 26 Apr 88, the discharge authority directed the applicant be discharged under the provisions of AFR 39-10, chapter 5, section D, paragraph 5-22b (2), with an ELS without the offer of probation and rehabilitation.

**AFBCMR Docket Number BC-2022-00699
CUI//SP-MIL/SP-PRVCY**

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

CUI//SP-MIL/SP-PRVCY

On 27 Apr 88, the applicant received an Uncharacterized ELS. His narrative reason for separation is "Entry Level Performance." He was credited with 3 months and 21 days of total active service.

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

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 22 Apr 22, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, describes the authorized service characterizations.

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

CUI//SP-MIL/SP-PRVCY

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:

Entry Level Separation. Airmen 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 after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or
- The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

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. The applicant clearly had difficulties adjusting to the military during his brief time in service. His difficulties were mostly attributed to stressors relating to his mother followed by difficulties adjusting to the Air Force environment and completing his class assignments. These stressors caused him to be unmotivated and unwilling to continue in the Air Force, and he was not amenable to any interventions. His records supported his emotional distress from his personal stressors and adjustment issues resulted with his declined work performance. His service treatment records revealed he was given a condition of occupational dissatisfaction. His ultimate poor work performance was classified under the category of "Entry Level Performance," which was listed as his narrative reason for separation on his DD Form 214. He was discharged under ELS with an Uncharacterized character of service because he served less than 180 days of continuous active duty service. His service characterization is in accordance with past regulation of AFR 39-10 (regulation he was discharged under) and current regulation of DAAFI 36-3208. The applicant's discharge reason is assessed to be appropriate based on his described and observed overall functioning and is consistent to policy and regulation and thus, there is no error or injustice identified with his discharge.

Liberal consideration is applied to the applicant's request. The following are responses based on the available records to the four questions from the Kurta memorandum:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant's legal counsel on behalf of the applicant requested an upgrade of his discharge and alluded to a possible nexus between his mental health condition and involuntary discharge.
2. Did the condition exist or experience occur during military service?

CUI//SP-MIL/SP-PRVCY

The applicant was seen twice by a mental health provider during service by referral of his First Sergeant due to personal problems and his desire to separate from the Air Force. A condition of occupational dissatisfaction was annotated in his service treatment records.

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

The applicant's personal problems pertaining to his mother's welfare caused his emotional distress and poor work performance. He was recommended for administrative separation because he was unmotivated and unwilling to adapt to the military despite interventions provided by his First Sergeant and mental health provider. There is no error or injustice identified with this discharge and his mental health condition 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 may excuse or mitigate his discharge, his mental health condition also does not outweigh his original 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 Counsel on 30 Aug 22 for comment (Exhibit E) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not 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 opinion 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 or experience adapting to the military environment had a direct impact on his behaviors resulting with his discharge. In addition, his condition or experience does not excuse, mitigate, or outweigh his discharge. 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

CUI//SP-MIL/SP-PRVCY

The following quorum of the Board, as defined in DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-00537 in Executive Session on 25 Jan 23:

Work-Product [Redacted], Panel Chair
Work-Product [Redacted], Panel Member
Work-Product [Redacted], Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 1 Feb 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 22 Apr 22.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 29 Aug 22.
- Exhibit E: Notification of Advisory, SAF/MRBC to Counsel, dated 30 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.

12/4/2023

Work-Product [Redacted]

Board Operations Manager, AFBCMR
Signed by: *Work-Product* [Redacted]