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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00874

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His general (under honorable conditions) discharge be upgraded to honorable.

APPLICANT'S CONTENTIONS

He was separated from the Air force due to mental health issues and the doctor who released him stated he had schizophrenia, which was misdiagnosed later on after his discharge. He was released early from his contract and should not be penalized. By having a character of service of under honorable conditions on his DD Form 214, *Report of Separation from Active Duty*, harm has been caused to him and his family when they try to receive certain benefits they are entitled to receive.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force staff sergeant (E-5).

On 21 Dec 73, the applicant's request for a hardship discharge due to financial problems was denied by his commander.

On 5 Sep 74, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFM 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*, paragraphs 2-4b, 2-4g, and 2-4c. The specific reasons for the action were:

- a. On 15 Feb 73, a Letter of Reprimand (LOR) was issued for improperly following procedures.
- b. On 11 Mar 74, a Mental Health Examination was conducted on the applicant which determined he had a borderline paranoid personality, suffering from the stresses of adapting to a difficult marital situation. It was recommended he be separated from the military

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finding his prognosis for improvement poor due to the chronicity of his condition and lack of insight.

c. Dated from 31 Dec 73 to 26 Jul 74, several letters were issued outlining his financial irresponsibility.

d. Dated from 15 Apr 74 to 9 Aug 74, several letters of evaluation were issued indicating the applicant exhibited poor performance behavior and attitude.

e. On 30 Jul 74, a Letter of Counseling (LOC) was issued for failing to report for duty on time on several occasions.

On 13 Nov 74, the applicant requested a waiver of his administrative hearing only if he was granted an honorable discharge; otherwise, he would be present for the hearing.

On 2 Dec 74, the applicant was notified he was scheduled for an administrative hearing.

On 17 Dec 74, the applicant waived his rights to a hearing without any qualification or condition.

On 26 Dec 74, the Staff Judge Advocate found the discharge action legally sufficient.

On 3 Jan 75, the discharge authority directed the applicant be discharged with a general service characterization.

On 24 Jan 75, the applicant received a general (under honorable conditions) discharge. He was credited with 6 years, 9 months, and 29 days of total active service.

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

POST-SERVICE INFORMATION

On 26 Apr 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, he 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

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

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.

AIR FORCE EVALUATION

AFPC/DP2SSR recommends denying the application finding no error or injustice with the discharge processing. A review of the applicant's master of personnel record revealed the commander provided the Base Discharge Authority (BDA) ample evidence to support discharge and the character of service. The commander cited multiple instances of poor performance and behavior which warranted discharge. The BDA determined the significant aspects of the applicant's behavior outweighed any positive aspects of the applicant's military career during this enlistment period. Furthermore, the applicant has not submitted a timely application. It has been 47 years since the applicant's discharge and has therefore well exceeded the timeline for AFBCMR consideration. The discharge was consistent with the procedural and substantive requirements of the discharge regulation, the applicant was provided full administrative due process, and was within the discretion of the discharge authority.

The complete advisory opinion is at Exhibit D.

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 available records partially corroborates the applicant's contention. He was discharged due to his mental health condition as he contended; however, it is not because of schizophrenia. He was never diagnosed with schizophrenia or any psychotic disorders during service. His records reported he had a borderline paranoid personality caused by the stressors of adapting to his difficult marital situation and this condition was manifested by his paranoid and passive-aggressive behaviors. Paranoid personality is not the same as a psychotic disorder such as schizophrenia but is categorized as personality disorder or character and behavior disorder. Personality disorders and traits are enduring patterns of inner experience that are pervasive, inflexible, stable (over time), and lead to distress or impairment. He had paranoid traits such as being highly suspicious of the evaluator's intentions and displayed unusual behaviors but did not display or had any hallucinations. Hallucinations are symptoms of schizophrenia which he did not have. The applicant claimed he was misdiagnosed. He did not submit any records or evidence to support this claim. His comprehensive psychological test and evaluation results were not available for review or submitted by the applicant and so the Psychological Advisor could not assess the evaluation to determine if there was any error with his mental disorder diagnosis given during service. It is presumed his personality disorder diagnosis was valid due to no evidence contesting its validity. The applicant sought mental health treatment from the Department of Veterans Affairs (DVA) more than 30-years post-discharge for occupational problems with his supervisor and colleagues causing him to have depression, aggressive behaviors, and anger issues. He admitted to his DVA provider he had similar behaviors and problems during service and thus, this impression would support the validity of his personality disorder/traits as they were demonstrated to be enduring, pervasive, inflexible, stable, and leading to distress or impairment with his occupational functioning even decades post-service. None of his DVA providers had diagnosed

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him with a personality disorder but acknowledged he was discharged for having an unsuited personality disorder. They never addressed nor disputed his personality disorder diagnosis and were focused on his more prominent conditions of bipolar disorder and PTSD that were developed post-service.

In addition to the applicant's unsuited personality disorder, he displayed apathetic and defective attitudes and a pattern of misconduct which were additional reasons for his discharge. His military records reflected he had repeatedly expressed a desire to get out of the Air Force due to his financial problems and informed his two First Sergeants at different times he would get discharged any way he could. He purposefully engaged in poor performance and behaviors to include failing his test even though he was able to perform his duties because he did not want to show he was a capable technician and did not intend to repay his debts despite having a solution to alleviate his problems. He was counseled, provided with assistance, and was given opportunities to repair his behaviors by his leadership but these efforts proved to be futile as he was unreceptive to these efforts. His personality traits of passive-aggressive behaviors were a contributing factor to his misconduct causing his subsequent discharge from service but does not excuse his behaviors. He deliberately engaged in poor behaviors and performance to get discharged which he eventually succeeded in accomplishing and was fully aware of his behaviors. He was furnished with a character of service of under honorable conditions by his commander due to these reasons and this decision is within his commander's authority and consistent to regulation. Therefore, there is no error or injustice identified with his discharge from service.

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 contended he was discharged from the Air Force due to mental health issues and claimed he was misdiagnosed with schizophrenia.
2. Did the condition exist or experience occur during military service?
There is no evidence the applicant was diagnosed with schizophrenia during military service. He was evaluated during service and was reported to have borderline paranoid personality from stressors of adapting to his difficult martial situation, and the condition was manifested through paranoid and passive-aggressive behaviors. His borderline paranoid personality is not schizophrenia or any other psychotic disorders.
3. Does the condition or experience excuse or mitigate the discharge?
The applicant's unsuited personality disorder was a reason for his discharge in addition to his apathetic and defective attitude and pattern of misconduct. His personality traits were a contributing factor to his poor performance and behaviors, but his behaviors were found to be purposeful in order to be discharged from service. His mental health condition does not excuse or mitigate his discharge.
4. Does the condition or experience outweigh the discharge?

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Since the applicant's mental health condition does not excuse or mitigate his discharge, his condition also does not outweigh his original discharge.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 15 Nov 22 for comment (Exhibit F) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all clemency and discharge requests are technically untimely. However, it would be illogical to deny such 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. Based on the available evidence of record, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. The applicant has provided no evidence which would lead the Board to believe his service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. Additionally, 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 finds no evidence he was misdiagnosed and discharged due to schizophrenia; he was discharged for having an unsuited personality disorder in addition to a pattern of misconduct. Liberal consideration was applied to the applicant's request due to the contention of a mental health condition; however, the Board finds his behaviors were purposeful in order to be discharged from service; therefore, his mental health condition does not excuse, mitigate, or outweigh his discharge. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's records.

The applicant retains the right to request reconsideration of this decision. The applicant may provide post-service evidence depicting his current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization due to clemency based on fundamental fairness.

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

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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 the Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-00874 in Executive Session on 25 Jan 23:

Work-Product [Redacted] Panel Chair
[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, dated 12 Mar 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 26 Apr 22.
- Exhibit D: Advisory Opinion, AFPC/DP2SSR, dated 3 May 22.
- Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 14 Nov 22.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 15 Nov 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.

12/22/2023

Work-Product [Redacted] _____

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