

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-02001

XXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

Her DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 28. *Narrative Reason for Separation*, corrected to remove "Disability, Existed Prior to Service."

### APPLICANT'S CONTENTIONS

She has never been diagnosed with Bipolar Disorder aside from her medical board evaluation, which is even noted to be implausible within that paperwork itself. She did not have a disability prior to service, although she has been rated since exiting the Air Force with Anxiety with PTSD features. She was in fact denied service connection for Bipolar Disorder. Aside from this solitary instance, she has never been diagnosed with this condition, before or after serving. She did not have a pre-existing mental health condition upon enlistment.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an honorably discharged Air Force senior airman (E-4).

On 9 Jan 03, according to AF Form 618, *Medical Board Report*, the applicant was diagnosed with Bipolar I Disorder – Existed Prior to Service (EPTS), with a recommendation for an Informal Physical Evaluation Board (IPEB).

On 27 Jan 03, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Informal)*, the applicant was found to have conditions that can be unfitting but are not currently compensable or ratable: Bipolar I Disorder, EPTS without Service Aggravation, Social and Industrial Adaptability Impairment Definite, and was recommended for discharge under other than Chapter 61, Title 10, United States Code (10 USC 61), (EPTS).

On 30 Jan 03, according to AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, the applicant did not agree with the findings and recommended disposition of the IPEB and demanded a formal hearing of the case.

On 6 Mar 03, the XXX Medical Operations Squadron Staff Clinical Psychologist provided a Synopsis of Findings on the applicant to the Medical Evaluation Board (MEB).

On 7 Mar 03, according to AF Form 356 (Formal), the applicant was found to have conditions that can be unfitting but are not currently compensable or ratable: Bipolar I Disorder, EPTS without Service Aggravation, Social and Industrial Adaptability Impairment Definite, and was recommended for discharge under other than 10 USC 61, (EPTS).

On 7 Mar 03, according to AF Form 1180, the applicant did not agree with the findings and recommended disposition of the Formal Physical Evaluation Board (FPEB) hearing and did not desire to submit a rebuttal.

On 14 Mar 03, according to AFPC/DPPDS email, officials within the office of the Secretary of the Air Force determined the applicant was physically unfit for continued military service due to a physical disability which existed prior to military service and directed discharge without disability benefits, effective 23 Apr 03.

On 23 Apr 03, the applicant was furnished an honorable discharge, with Narrative Reason for Separation: Disability, Existed Prior to Service, PEB, and credited with 3 years, 6 months, 18 days active service.

On 21 Mar 16, according to an excerpt of Department of Veterans Affairs (DVA) Rating Decision, provided by the applicant, she was rated at 30 percent compensable for Anxiety with PTSD Features (previously Denied as Bipolar Disorder), from 24 Aug 15, with previous date of denial of 25 Aug 03.

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

#### **APPLICABLE AUTHORITY/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.

#### **AIR FORCE EVALUATION**

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence has been presented to support the applicant's request for the desired change to her records.

A review of the applicant's available records finds the applicant has not met the burden of proof to support her request. According to her MEB Narrative Summary, the applicant began to display apparent bipolar symptoms in Nov 02, while in service, and was subsequently psychiatrically hospitalized twice in rapid succession because of her acute presentation and mismanagement of her symptoms. She was eventually diagnosed with Bipolar Disorder, specifically Bipolar I Disorder, and was treated for this condition during her hospital stays. Her mental health provider had determined this condition was EPTS because she had a depressive episode lasting at least two weeks when she was approximately 16 years old and had attempted suicide at that time and did not tell anyone. In another part of the MEB narrative summary, it was reported she overdosed with pills at approximately the age of 15. She consistently admitted she did indeed attempt suicide at the age of 15 (no mention at the age of 16) to her DVA providers. It is not certain if these were two separate incidents, at the ages of 15 and 16, or one incident. Either way, this incident or episode was assessed to be evidence that her Bipolar Disorder was EPTS. Depression or depressive episodes are common symptoms of Bipolar Disorder and often depressive symptoms may manifest before a manic episode may appear. Bipolar disorder usually begins with a depressive episode in adolescence or early adulthood and a manic phase may follow years later in early adulthood per the Diagnostic and Statistical Manual of Mental Disorders (DSM). The course of the applicant's Bipolar Disorder had

followed the common developmental path for this condition, which was reflected in the narrative summary. The assessment and opinion that her condition was EPTS was concurred by the IPEB and FPEB. The applicant had formally appealed to the FPEB as a personal appearance and was given an opportunity to discuss her condition. The FPEB recognized the applicant contended her suicide attempt as a teenager was a separate issue from her bipolar condition; however, the FPEB noted her MEB narrative summary described her depressive episode experienced in service was the same as the episode she experienced at the age of 15. Thus, the FPEB also determined her condition was EPTS based on this information. This psychological advisor concurs with the assessment and finding that her condition was EPTS for the aforementioned reasons. There is no error or injustice identified with her condition's specifier of EPTS. Furthermore, the applicant did not submit any substantive evaluations or records from a duly qualified mental health professional to corroborate her claim that her condition was not EPTS.

The applicant contends she was never diagnosed with Bipolar Disorder before service. There was a report in the MEB narrative summary that she saw a counselor one time around the time she attempted suicide at the age of 15 and did not reveal the depth of the sadness she felt at the time. The content of her counseling session was not revealed, but this one-time visit was an indication her counselor was deprived of an opportunity to thoroughly assess her for any potential mental disorder or condition. For a serious condition like Bipolar Disorder, multiple sessions are often necessary to properly assess and diagnose this condition. It is not standard practice to diagnose an individual with Bipolar Disorder in one session and so this may be a plausible reason she was not diagnosed with Bipolar Disorder before service. She also admitted to not revealing the depths of her sadness to her counselor. Mental health providers rely on open disclosures and reporting from their clients or patients to form a clinical impression and diagnosis. When a provider is not provided with the necessary and pertinent information, a proper evaluation could not be performed. Her sadness was reported to be related to her childhood sexual abuse but during that time frame, she reported experiencing a two-to-three-month period of decreased mood, fragmented sleep, loss of energy, hopelessness, and thoughts of suicide. Should her counselor receive this information from the applicant, an impression that she was experiencing a depressive episode could or would have been formed because of the description of her depressive/mood symptoms. This information could then be used for continuous assessment for a diagnosis should she continue with counseling services at that time. There was no report or evidence she experienced a manic episode prior to service but again, depressive episodes for which she made an admission did occur prior to service, may serve as precursor symptoms to her Bipolar Disorder, diagnosed several years later in her early 20s. This timeline matches the onset and development of Bipolar Disorder per the DSM. If she continued with counseling services, it is possible she may have been eventually diagnosed with Bipolar Disorder with time. This is, however, purely speculative due to no records to substantiate this hypothesis. The absence of a diagnosis prior to her service does not indicate the condition was not EPTS. She reported having significant symptoms occurring prior to service and this is sufficient to demonstrate her condition was EPTS.

The applicant contends she was not diagnosed with Bipolar Disorder post-service, and there are no records reflecting the applicant was diagnosed with Bipolar Disorder after service. This is mainly because her post-service treatment records from her civilian providers were not submitted for review. Her DVA treatment records were available for review, but these records are currently limited because she recently began to receive mental health treatment from the DVA about a month prior to the date of this advisory. The DVA has not had the time to assess and treat her for Bipolar Disorder yet and her psychiatrist noted she had a history of Bipolar Disorder. She informed her psychiatrist she had not taken medications for Bipolar Disorder for 15 years because she felt like a zombie. She was discharged from service 20 years ago and so there was a 5-year period after service that she was probably taking psychotropic medications for Bipolar Disorder according to her timeline. She would not have received prescriptions or refills for these types of medications if she was not diagnosed with Bipolar Disorder; therefore, she

most likely was diagnosed with Bipolar Disorder after service. Additionally, she was noted to have poor compliance to her medication during service and so it is not unexpected that she would stop taking her medications after service. Her DVA psychiatrist had educated her about medications for bipolar in case her symptoms reemerge, signifying her psychiatrist is monitoring her symptoms for possible diagnosis and treatment in the future. During her intake evaluation at the DVA on 15 Jun 23, she reported feeling overwhelmed and having panic attacks before experiencing a psychotic break during service. She experienced these same symptoms after service according to her report, to include having a period of using substances/cocaine, feeling worried, feeling like she overspends, and having concentration issues. These symptoms resemble her bipolar symptoms experienced during service. The applicant had demonstrated a lack of insight and an unwillingness to accept her condition of Bipolar Disorder in the past and so the absence of a diagnosis for Bipolar Disorder after service may be caused by these issues. The lack of a diagnosis does not completely demonstrate her condition of Bipolar Disorder does not exist nor is not EPTS. Lastly, she informed her DVA psychiatrist she learned how to cope with her bipolar symptoms, and it was noted she was using marijuana. These strategies may have helped her manage her bipolar symptoms in lieu of taking her medications for bipolar. Avoiding or not taking medications for bipolar also does not rule out or confirm that the condition does not exist. Again, the applicant has not submitted any compelling evaluations or records to confirm her Bipolar Disorder does not exist or is not EPTS.

The applicant had submitted a copy of the memorandum for the MEB, dated 6 Mar 03, completed by her military mental health provider. In this submitted memorandum, the applicant highlighted and underlined this statement: *"Given the chronic nature of personality disorders and their typical age-at-onset, it is my opinion that a determination of a pre-existing personality disorder in this case must be viewed as implausible"* as evidence her condition of Bipolar Disorder was not EPTS. This quoted statement does not support the impression her Bipolar Disorder was not EPTS. This statement disputed and confirmed she did not have a pre-existing Personality Disorder. A Personality Disorder is different than Bipolar Disorder. The provider did not dispute or negate her Bipolar Disorder was EPTS but confirmed she had Bipolar I Disorder. The applicant also submitted a Rating Decision letter from the DVA declaring she was denied service connection for Bipolar Disorder. The reason she was denied service connection for Bipolar Disorder was because her condition was EPTS according to the DVA's explanation. The DVA does not provide service connection for conditions that are determined to be EPTS. The DVA appeared to have concurred her Bipolar Disorder was EPTS because the DVA stated, "Witness statements were included to challenge that indication suggesting a pre-existing mental condition" in reference to her Bipolar Disorder. The fact that the DVA denied service connection for her Bipolar Disorder because it was EPTS indicates the DVA also found her condition as EPTS. Being denied service connection does not denote her condition of Bipolar Disorder was not EPTS.

A complete review of the available records finds insufficient evidence has been presented to corroborate the applicant's claim that her condition of Bipolar Disorder was not EPTS and thus, her request to remove the designation of EPTS from her DD Form 214 and other military records could not be supported. There is ample information and evidence documented in her military and treatment records to support her condition was EPTS. There is no error or injustice identified with her diagnosis, EPTS specifier, and discharge.

This psychological advisor opines liberal consideration is not appropriate to be applied to her request to remove the designation/specifier of EPTS from her military records. This type of request is not covered under this policy.

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 23 for comment (Exhibit D) 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 recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant's military medical records, MEB/PEB documents, and DVA rating decision support a finding of Bipolar Disorder – EPTS. The applicant did not provide any evidence to contradict this finding. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

## **RECOMMENDATION**

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 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-2022-02001 in Executive Session on 30 Nov 23:

, Panel Chair  
, Panel Member  
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 22 Jun 22.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 19 Jul 23.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Aug 23.

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.

**X**

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Board Operations Manager, AFBCMR