



CUI//SP-MIL/SP-PRVCY

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02143

Work-Product

COUNSEL: NONE

Work-Product

HEARING REQUESTED: NO

APPLICANT’S REQUEST

Her general (under honorable conditions) discharge be upgraded to honorable and her years of service increased from Junior Reserve Officer Training Corps (JROTC) service prior to her enlistment.

APPLICANT’S CONTENTIONS

She was placed on medical bed rest prior to the birth of her child and suffered a postpartum disability.

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 24 Sep 02, the applicant’s commander recommended the applicant be discharged from the ANG and as a Reserve of the Air Force, under the provisions of AFI 36-3209, Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members, paragraph 3.13.2. The specific reason for the action was unsatisfactory participation due to nine or more unexcused absences from unit training assemblies (UTAs) within a 12-month period.

On 2 Nov 02, the Staff Judge Advocate found the discharge action legally sufficient.

On 14 Nov 02, the discharge authority directed the applicant be discharged under the provisions of AFI 36-3209, paragraph 3.13.2 with a general (under honorable conditions) discharge. On this same date, Special Order Work-Prod... reflects the applicant was discharged with a general (under honorable conditions) discharge from the ANG and as a member of the Reserve of the Air Force

According to NGB Form 22, Report of Separation and Record of Service, on 14 Nov 02, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is “AFI 36-3209, paragraph 3.13.2,” which denotes Unsatisfactory Participation. She was credited with three years, seven months, and five 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.

AFBCMR Docket Number BC-2022-02143 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

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 26 Oct 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 Department of the 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.

General (Under Honorable Conditions). 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 member's military record.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review all available records and finds insufficient evidence has been presented to support the applicant's request. The applicant did not clearly state she had a mental health condition in her application but stated she had a postpartum disability, which could possibly be postpartum depression. There was no evidence the applicant had any mental health conditions during service, no evidence her mental health condition affected her

ability to inform her leadership or respond to their numerous notifications of absence letters, and no evidence her mental health condition had a direct impact to her discharge. Her leadership had demonstrated they had made earnest efforts to contact her and to notify her of the consequences of her repeated absences. She had ample opportunities to respond at any time to their notices that occurred over a six-month or more period and she was unresponsive or not amenable to their efforts. Moreover, there were no records she informed her leadership of her situation or condition. As a result, there was no error or injustice with her discharge from a mental health perspective.

While the applicant made no specific mental health contentions, the Board may consider applying liberal consideration to her petition based on her contention of postpartum disability that may possibly include postpartum depression to give the applicant the benefit of the doubt. The following are answers to the four questions from the Kurta Memorandum 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 contends she was placed on medical bed rest prior to her son's birth on 22 Nov 02 and suffered from postpartum disability that was not considered in her records. She did not clarify her postpartum disability and no made no references to having a mental health condition.
2. Did the condition exist or experience occur during military service?
There is no evidence the applicant was placed on bed rest or suffered from postpartum disability to include postpartum depression during her military service.
3. Does the condition or experience actually excuse or mitigate the discharge?
There is no evidence the applicant had any mental health conditions during service, no evidence her mental health condition had affected her ability to inform her leadership of her condition/situation or respond to their numerous notifications of absence letters, and no evidence her mental health condition had a direct impact to her discharge. Thus, her mental health condition or experience does not excuse or mitigate her discharge.
4. Does the condition or experience outweigh the discharge?
Since there is no evidence her mental health condition or experience may excuse or mitigate her discharge, her condition or experience also does not outweigh her 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 10 Feb 23 for comment (Exhibit E) 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 upgrade 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. 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. Furthermore, the Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request. The applicant did not provide any evidence or records to substantiate her claim that a mental health condition had a direct impact to her discharge, thus her condition does not mitigate or excuse her discharge. The burden of proof is placed on the applicant to submit evidence to support her claim. 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-02143 in Executive Session on 21 Jun 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, dated 6 Aug 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 Oct 22.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 9 Feb 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 10 Feb 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.

2/6/2024

 _____

Board Operations Manager, AFBCMR
Signed by: 