



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02557

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He was not diagnosed with post-traumatic stress disorder (PTSD) after a severe stress event. He did not receive proper treatment which ultimately resulted in receiving a general (under honorable conditions) discharge. He has recently been diagnosed with PTSD and receives 50 percent disability compensation from the Department of Veterans Affairs (DVA).

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 27 Jul 90, the applicant's commander recommended the applicant be discharged from the Air Force for Pattern of Misconduct, Minor Disciplinary Infractions, under the provisions of AFR 39-10, Administrative Separation of Airmen, paragraph 5-46. The specific reasons for the action were:

- a. On 28 Mar 90, the applicant received a Letter of Counseling (LOC) for failing to obey an order and regulation.
b. On 15 Apr 90, the applicant received a Letter of Reprimand (LOR) for operating a security police vehicle in excess of the posted speed limit.
c. On 21 Jun 90, the applicant received a LOR for failing to obey an order and operating instruction, failing to accomplish a required notification in accordance with the matrix after being directed to do so.
d. On 2 Jul 90, the applicant received a Letter of Admonishment for failing his Quality Control (QC) Evaluation as a desk sergeant and a patrolman.

On 18 Jul 90, the applicant was diagnosed with an Axis I: Adjustment Disorder, not otherwise specified with depression, physical complaints and work inhibition (Primary Diagnosis) and an Axis II: No diagnosis on Axis II during a commander-directed evaluation (CDE) to mental health. The Mental Health Evaluator found the applicant had no medical/psychiatric disorder warranting

AFBCMR Docket Number BC-2022-02557

Work-Product

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

action under AFR 35-4, *Physical Evaluation for Retention, Retirement, and Separation*. Subsequently, the Mental Health Evaluator recommended he be considered for an administrative discharge under the provisions of AFR 39-10, paragraph 5-11i or administrative cross-train could be considered.

On 6 Aug 90, the discharge authority directed the applicant be discharged under the provisions of AFR 39-10, paragraph 5-46 with a general (under honorable conditions) service characterization without the offer of probation and rehabilitation.

On 8 Aug 90, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct - Pattern of Minor Disciplinary Infractions." He was credited with three years, six months, and six 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 13 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 of all available records and finds sufficient evidence to support the applicant's request for an upgrade of his discharge from general (under honorable conditions) to honorable based on liberal consideration. There is evidence his mental health condition had impacted his behaviors and performance and his commander had suspected this to be the situation as well because of the CDE referral. There is sufficient evidence in his military records to demonstrate his mental health condition of Adjustment Disorder and not PTSD as claimed, was a mitigating factor to his misconduct and subsequent discharge. He did not have any unfitting mental health conditions that would meet criteria for a medical discharge according to his CDE. Should the Board agree with this opinion, it is also recommended the Board change his narrative reason for separation to "Secretarial Authority" or "Secretarial Plenary Authority" per current regulation of DAFI 36-3211 on his DD Form 214, *Certificate of Release or Discharge from Active Duty*, to be consistent with an honorable discharge.

Liberal consideration is applied to the applicant's request. The following are responses to the four questions from the Kurta Memorandum from the information presented in the records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?  
The applicant contends he had undiagnosed PTSD following a severe stress event and did not receive proper treatment. He claims this ultimately resulted with his general (under honorable conditions) discharge. The DVA rating decision letter he submitted identified his traumatic experience as having to perform CPR on a person who had a heart attack.
2. Did the condition exist or experience occur during military service?  
There is evidence the applicant received a Letter of Commendation dated 6 Oct 87 for his involvement with assisting and performing CPR on a person who had a heart attack. However, there is no evidence he developed PTSD from this experience and he was never diagnosed with PTSD or other Trauma and Stressor Related Disorders during service. He received a CDE in Jul 90, for his decline in duty performance. He reported during his CDE he was experiencing significant symptoms of depression, anxiety, and stress-related physical symptoms that began about five months prior (Feb 90) following his failure on his first QC evaluation that had been affecting his work performance. He was given a diagnosis of Adjustment Disorder Not Otherwise Specified (NPS) with Depression, Physical Complaints and Work Inhibition from the CDE.
3. Does the condition or experience actually excuse or mitigate the discharge?  
The applicant was recommended for consideration of an administrative discharge for having an unsuited mental health condition of an Adjustment Disorder (not PTSD) that affected his ability to function adequately in his career field of Security Police from his CDE. This indicated his mental health condition had a direct impact or was a mitigating factor to his misconduct and poor

performance resulting with his discharge. His mental health condition would excuse and mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since his mental health condition was found to excuse and mitigate his discharge, his condition would also outweigh his original discharge to support his request for an upgrade of his 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 20 Mar 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 all discharge requests are technically untimely. However, it would be illogical to deny such an 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on liberal consideration. In particular, there is sufficient evidence in his military records to demonstrate his mental health condition of Adjustment Disorder and not PTSD as claimed, was a mitigating factor to his misconduct and subsequent discharge. Therefore, the Board recommends the applicant’s records be corrected as indicated below.

**RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 8 Aug 90, he was discharged with service characterized as honorable, and a separation code of JFF and corresponding narrative reason for separation of Secretarial Authority.

**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-2022-02557 in Executive Session on 21 Jun 23:

- Work-Product Panel Chair
- Work-Product Panel Member
- Work-Product Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 9 Sep 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.

*Work-Product*

- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 13 Oct 22.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 9 Mar 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Mar 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.

2/7/2024

*Work-Product*

Board Operations Manager, AFBCMR

Signed by: *Work-Product*