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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02728

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COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

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

### APPLICANT'S CONTENTIONS

In 1981, she was diagnosed with an "adaptability disorder" and was advised by the doctor the condition would worsen with continued military service and he recommended she be administratively discharged. She turned this information over to her First Sergeant and he threw the report in the trash and threatened her with prison. She stated she did her best to conform and comply to the military as indicated by her accomplishments and accolades, and believes she served with honor to which her discharge should reflect that characterization.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 18 Nov 83, the applicant's commander recommended the applicant be discharged from the Air Force for a pattern of misconduct consisting of conduct prejudicial to good order and discipline, under the provisions of AFR 39-10, *Administrative Separation of Airmen*. The specific reasons for the action were:

- a. On 29 Apr 82, the applicant refused to obey a direct order to enter the main tank of an aircraft. She received a letter of reprimand (LOR), dated 26 May 82.
- b. In Oct 82, she lost her restricted area line badge and was verbally counseled on 28 Oct 82.
- c. From 19 to 20 Dec 82, the applicant was absent without authority from her place of duty and was punished pursuant to Article 15, Uniform Code of Military Justice (UCMJ). On

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

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29 Dec 82, she received a reduction in grade to airman (suspended), forfeiture of \$320.00 per month for 2 months (\$160.00 each month suspended), and 30 days extra duty.

d. On 21 Mar 83, the applicant was directed to provide a urine specimen which subsequently tested positive for the presence of marijuana. She received a LOR, dated 22 Apr 83.

e. On 19 Sep 83, the applicant was again directed to provide a urine specimen and again tested positive for marijuana. She again received a LOR, dated 28 Oct 83.

On 5 Dec 83, the Staff Judge Advocate found the discharge action legally sufficient.

On 8 Dec 83, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct – Pattern Conduct Prejudicial to Good Order and Discipline" and was credited with one day (19 Dec 82 – 20 Dec 82) of lost time and 2 years, 1 month, and 18 days of total active service.

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

#### **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 24 May 23, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit E).

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 the applicant's contentions were partially corroborated by her military records. There is no evidence her First Sergeant threw her psychiatric evaluation report away or threatened her with prison as she contended. However, there is evidence to support her remaining contention pertaining to her mental health evaluation. She received a psychiatric evaluation on 10 May 82 (not 1981 as contended) by referral from her First Sergeant and consideration for possible administrative discharge action for her inadaptability and unsuitability was made by the Mental Health Clinic (MHC) to her commander. This consideration for discharge action was not elected by her commander for unspecified reasons, but her commander is not required to accept the recommendation and has discretion over this matter. The result of her psychiatric evaluation finds she was diagnosed with an adjustment disorder with Depressed Mood manifested by tearfulness, insomnia, loss of appetite, loss of weight, feelings of hopelessness, anxiety, and difficulty in concentration. Her symptoms arose from her inability to adjust and adapt to military service. The psychiatric evaluation examiner opined there is no likelihood she could be rehabilitated into a more effective individual and it was likely her dissatisfaction will increase and she will have more difficulties over time. This assessment and opinion materialized as she did have difficulties as evidenced by her documented misconduct increasing in frequency and severity all occurring after she was referred to the MHC for an evaluation by her First Sergeant. The reasons for her behaviors/misconduct were not specified in her military records nor by the applicant in her application, but her last note from the Drug Rehab Committee Meeting, dated 8 Nov 83, reported she admitted to being unhappy with the Air Force since she enlisted, and this report coincided with the time it was revealed she tested positive for marijuana for the second time. The applicant denied having any mental health concerns during her separation physical with her Primary Care Manager on 22 Nov 82, but her meeting notes a few weeks prior noted her unhappiness. There is no explicit explanation for this discrepancy, and it is possible her mental health symptoms may have

dissipated with the announcement or preparation of her administrative discharge action because her examiner did opine her inability to adjust and adapt to military service “will disappear when she leaves military service.” The Psychological Advisor gives the applicant the benefit of the doubt and finds her mental health condition of an adjustment disorder, more likely than not, was a mitigating factor to her behaviors and discharge based on the results and recommendation of her psychiatric evaluation performed during service.

After an exhaustive review of the available records, the Psychological Advisor finds sufficient evidence to support the applicant’s request for an upgrade of her character of service based on liberal consideration. The following are responses to the four questions from the Kurta Memorandum from 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 referred to a mental health evaluation in 1981 and it was determined she had an “adaptability disorder.” She was advised by her doctor her condition would worsen the longer she was associated with the military and was recommended for an administrative discharge.

2. Did the condition exist or experience occur during military service?

There is evidence the applicant was referred to a mental health evaluation in 1982 (not 1981) by her First Sergeant. The results of her mental health evaluation performed on 10 May 1982, yielded a diagnosis of an Adjustment Disorder with Depressed Mood manifested by tearfulness, insomnia, loss of appetite, loss of weight, feelings of hopelessness, anxiety, and difficulty in concentration and her symptoms arose from her inability to adjust and adapt to military service.

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

There is evidence from her psychiatric evaluation performed during service she had difficulties adapting to the military causing her to experience depressed mood and was recommended for an administrative discharge by the MHC for having an unsuited mental health condition. Her examiner assessed and opined the longer she remains in the service, her dissatisfaction will increase and she will have more difficulties over time. All of her documented misconduct had increased in frequency and severity over time as assessed and her last meeting note during service reported she was dissatisfied with the Air Force, coinciding with the time it was revealed she tested positive for marijuana for the second time. There is evidence of a nexus between her mental health condition and misconduct problems and thus, her mental health condition excuses and mitigates her discharge.

4. Does the condition or experience outweigh the discharge?

Since her mental health condition excuses and mitigates her discharge, her condition also outweighs her original discharge.

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 24 May 23 for comment (Exhibit D) but has received no response.

**FINDINGS AND CONCLUSION**

1. The application was 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on liberal consideration and concurs with the rationale of the AFRBA Psychological Advisor. In particular, the Board finds she was diagnosed with an unsuiting mental health disorder which caused her inability to adjust and adapt to military service. Due to this and the application of liberal consideration, the Board finds evidence of a nexus between her mental health condition and misconduct problems and thus, her mental health condition excuses, mitigates, and outweighs her 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 December 1983, she was discharged with service characterized as honorable and a separation code and corresponding narrative reason for separation of JFF (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-2022-02728 in Executive Session on 3 Oct 23 and 13 Feb 24:

- 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, dated 11 Oct 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 22 May 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 24 May 23.
- Exhibit E: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 24 May 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.

12/5/2024

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Board Operations Manager, AFBCMR

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