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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

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DOCKET NUMBER: BC-2022-02895

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT’S REQUEST

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

APPLICANT’S CONTENTIONS

He suffered a mental health breakdown following a family member’s death.

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 16 Jun 82, the applicant’s commander recommended he 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*, Chapter 2, Section A, Paragraph 2-4c. The specific reasons for the action were:

- a. On 31 Dec 79, the applicant received a dishonored check notification letter for writing bad checks.
- b. On 2 Sep 80, the applicant received a dishonored check notification for writing bad checks. On this same date, the applicant received a Letter of Counseling (LOC) for failing to maintain his dormitory area in an acceptable condition.
- c. On 3 Dec 80, the applicant received a Letter of Reprimand (LOR) for disobeying a lawful order of a noncommissioned officer (NCO).
- d. On 10 Dec 80, the applicant received a LOR for vehicle abuse.
- e. On 26 Jan 81, the applicant received a LOC for failing to shave after being instructed to do so.
- f. On 30 Jan 81, the applicant received a LOR for being late for duty.
- g. On 5 Feb 81, the applicant received a LOC for failing to maintain his dormitory area in an acceptable condition.

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- h. On 10 Feb 81, the applicant received an Article 15 for assaulting a fellow airman by driving at him with a vehicle. For this misconduct, he was ordered to forfeit \$100.00 pay per month for 2 months, reduction to the grade of airman and ordered into correctional custody for 30 days.
- i. On 25 Jan 82, the applicant received a LOR for failing to make satisfactory progress in the weight management program (WMP). This misconduct was placed in his Unfavorable Information File (UIF).
- j. On 22 Apr 82, the applicant received a Notification of Placement on the Control Roster for failing to show progress in the WMP for five or six evaluation periods and failing to maintain his dormitory quarters in a sanitary condition.
- k. On 27 Apr 82, the applicant received an Article 15 for damaging a government vehicle in the amount of \$125.31. For this misconduct, he was ordered to forfeit \$150.00 pay per month for 2 months, reduction to the grade of airman first class and ordered into correctional custody for a period of 30 days.

On 13 Jul 82, the Judge Advocate found the discharge action legally sufficient.

On 29 Jul 82, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Unsuitability – Apathy, Defective Attitude." He was credited with 3 years, 1 month, and 29 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 23 Jan 23, 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 finds insufficient evidence to support the applicant's request for an upgrade of his discharge from a mental health perspective. A review of the available records finds the applicant has not met the burden of proof to support his request. There were no records he reported or was observed to experience a breakdown by his leadership, colleagues, and/or providers and no records he sought or received a medical or mental health evaluation or treatment for his alleged breakdown. He was discharged for engaging in numerous problematic misconducts and not adhering to military standards that was classified as apathetic and defective attitudes. His attitudes and behaviors were unsuited for continued military service.

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 suffered a mental health breakdown while on active duty related to delayed grief of his father's death. He did not explain how his mental health condition may excuse or mitigate his discharge.
2. Did the condition exist or experience occur during military service?
There is no evidence the applicant suffered a mental health breakdown during service. There is no evidence he reported this experience to his leadership or medical providers and no evidence he received any mental health evaluations, treatment, or mental disorder diagnosis during service. He completed a separation physical prior to his discharge and denied having any past or present mental health concerns or problems at the time.
3. Does the condition or experience excuse or mitigate the discharge?
There is no evidence the applicant's mental health condition or mental health breakdown had a direct impact or was a mitigating factor to his discharge and thus, his mental health condition does not excuse or mitigate his discharge. Furthermore, he had engaged in serious misconduct that could have potentially caused serious personal injury to another airman and his behaviors could not be excused or mitigated by his mental health condition.

4. Does the condition or experience outweigh the discharge?
Since his 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 D.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 2 Mar 23 for comment (Exhibit E) 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 of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Liberal consideration was applied to the applicant’s request due to the contention of a mental health condition; however, since there is no evidence his mental health condition or experience with grief had a direct impact on his behaviors and misconduct resulting with his discharge, his condition or experience does not excuse, mitigate, or outweigh his discharge. The burden of proof is placed on the applicant to submit evidence to support his 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-2022-02895 in Executive Session on 26 July 23:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 27 Oct 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 23 Jan 23.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 1 Mar 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Mar 23.

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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.

3/12/2024

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Board Operations Manager, AFBCMR

Signed by *Work-Product*

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