

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00104

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, amended as follows:

- a. Block 12f. *Foreign Service*, to reflect foreign service in Kuwait. **(pending administrative correction)**
- b. Block 13. *Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized*, to reflect awards and decorations for foreign service in Kuwait. **(pending review for administrative correction)**
- c. Block 28. *Narrative Reason for Separation*, remove "Personality Disorder."

APPLICANT'S CONTENTIONS

He served two tours in Kuwait. His DD Form 214 fails to include this time and he wants it to accurately reflect his military service. He has provided copies of travel vouchers and orders in support of his request. He separated honorably and completed his full contract, plus some (stop loss as his records will show), and his DD Form 214 should never have listed Personality Disorder.

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 26 Apr 02, according to XX MDOS/SGOH memorandum, dated 2 May 02, the applicant was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood according to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV).

On 23 May 02, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.11.1. Conditions That Interfere with Military Service. The specific reasons for the action were:

- He was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood under DSM IV.

On 23 May 02, the applicant acknowledged the Notification of Discharge and waived his right to submit statements.

On 31 May 02, the Staff Judge Advocate found the discharge action legally sufficient.

On 31 May 02, the discharge authority directed the applicant be discharged for Conditions That Interfere with Military Service, with an honorable service characterization. Probation and rehabilitation were considered, but not offered.

On 4 Jun 02, the applicant was furnished an honorable discharge, with Narrative Reason for Separation of Personality Disorder, Separation Code of JFX [Personality Disorder], and credited with 4 years, 5 months, 24 days active duty service.

On 29 Mar 23, AFPC/DP3AM [Directorate of Assignments], issued the applicant a Boots-on-Ground letter for foreign service time in Kuwait from 12 May 99 through 15 Sep 99, and Portugal, Italy, and Kuwait from 20 Feb 01 through 18 May 01, for a total of 7 months and 3 days.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibits C and 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 25 Jul 18, the Under Secretary of Defense issued supplemental guidance to military corrections boards in determining whether relief is warranted based on equity, injustice, or clemency. These standards authorize the board to grant relief in order to ensure fundamental fairness. Clemency refers to relief specifically granted from a criminal sentence and is a part of the broad authority Boards have to ensure fundamental fairness. This guidance applies to more than clemency from sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. Each case will be assessed on its own merits. The relative weight of each principle and whether the principle supports relief in a particular case, are within the sound discretion of each Board. In determining whether to grant relief on the basis of equity, an injustice, or clemency grounds, the Board should refer to the supplemental guidance, paragraphs 6 and 7.

On 25 Sep 23, Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit F).

AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the applicant's request to list deployment locations on his DD Form 214 and to remove Personality Disorder from Block 28. *Narrative Reason for Separation*. Based on review of the applicant's request, there is no error or injustice with the discharge processing.

In accordance with Air Force Instruction 36-3202, *Separation Documents*, assignment locations, Temporary Duty, and deployment locations are not authorized for placement on the DD Form 214. Former service members have source documents in their personnel records that record the locations during their time of service. Furthermore, Block 28. *Narrative Reason for Separation*, is the cleartext of the Separation Program Designator Code (SPD), which is the reason why the applicant was discharged from the Air Force. The applicant's commander recommended to the Base Discharge Authority (BDA) that the applicant be discharged from the Air Force for a condition that interfered with further military service, personality disorder. The BDA approved the separation and directed discharge from the Air Force; therefore, the narrative reason for separation and corresponding SPD code are correct as indicated.

The complete advisory opinion is at Exhibit C.

AFRBA Psychological Advisor recommends granting the applicant's request to amend his Narrative Reason for Separation. Although there is no error or injustice identified with the applicant's discharge from service, and error was identified with his current narrative reason for separation listed on the DD Form 214. The applicant was not discharged for having a Personality Disorder but for an Adjustment Disorder.

The applicant contends he was separated honorably and block 28 on his DD Form 214 should have never listed Personality Disorder. This psychological advisor has reviewed the available records and fully concurs with the applicant's contention based on his military records. The applicant was never diagnosed with a personality disorder during service, nor was he discharged from service for this condition. He was, however, diagnosed with an unsuiting mental health condition of Adjustment Disorder with Mixed Anxiety and Depressed Mood during service and was recommended for discharge for this condition by his military mental health provider. This condition was the basis of his discharge per the Letter of Notification, dated 23 May 02, from his commander. There was no personality disorder diagnosis mentioned in this notification letter or from the mental health evaluation memorandum, dated 2 May 02, addressed to his commander from his provider. The narrative reason for separation currently listed on his DD Form 214 was found to be made in error. Adjustment Disorders and Personality Disorders are both categorized as unsuiting mental health conditions and so his current narrative reason appeared to be an administrative error. To correct this identifiable error, this psychological advisor recommends the Board to change the applicant's narrative reason for separation on his DD Form 214 to "Condition Not a Disability." This narrative reason is the appropriate and correct reason for his actual separation from service and is an acceptable narrative reason per liberal consideration guidance, Kurta Memorandum. Despite the error of his narrative reason listed on his DD Form 214, there is no error or injustice identified with his administrative discharge for having an unsuiting mental health condition.

Liberal consideration is applied to the applicant's request due to the contention of a mental health condition. The following are responses to the four questions in the Kurta Memorandum based on information presented in the records:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge? The applicant contends he was separated honorably and block 28 on his DD Form 214 should have never listed Personality Disorder.
2. Did the condition exist or experience occur during military service? There is no evidence the applicant was ever diagnosed with a Personality Disorder or that this condition had existed or occurred during his military service. He was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood by his military mental health provider during service.
3. Does the condition or experience excuse or mitigate the discharge? The applicant's Adjustment Disorder, not Personality Disorder, was the cause and reason for his discharge. Both conditions may result in an administrative discharge and so there is no error or injustice. There is an administrative error with his narrative reason on his DD Form 214 and his narrative reason should be changed to "Condition Not a Disability." His unsuiting mental health condition caused his discharge but does not excuse or mitigate his discharge.
4. Does the condition or experience outweigh the discharge? There is no error identified with the applicant's administrative discharge for having an unsuiting mental health condition; his condition does not outweigh his original discharge.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinions to the applicant on 25 Sep 23 for comment (Exhibit E) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
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 error. While the Board notes the recommendation of AFPC/DPMSSR against correcting the record and concurs with their rationale regarding the listing of deployment locations on the DD Form 214, the Board finds a preponderance of the evidence substantiates the applicant's contentions regarding his narrative reason for separation.

Further, the Board concurs with the recommendation of the AFRBA Psychological Advisor regarding the narrative reason for separation. While the Board finds no error in the original discharge process, the Board does agree an administrative error occurred regarding identification of Personality Disorder on his DD Form 214 as the reason for the applicant's separation. Finally, liberal consideration does not apply, but even if it were applied under the circumstances, it would not result in the requested relief. 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 the DD Form 214, *Certificate of Release from Active Duty*, issued in conjunction with his 4 Jun 02 discharge, be amended to reflect a Separation Code of JFV and a Narrative Reason for Separation of Condition, Not a Disability.

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-2023-00104 in Executive Session on 18 Jan 24:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 1 Dec 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 29 Mar 23.
Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 24 May 23.
Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Sep 23.
Exhibit F: Letter, SAF/MRBC (Liberal Consideration & Clemency), dated 25 Sep 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.

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Board Operations Manager, AFBCMR