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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00378

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COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

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

### APPLICANT'S CONTENTIONS

The first part of his service was above expectation; however, he spent many hours at the base club and developed an addiction to alcohol. He informed his supervisor of his problems, but he was counseled to drink less instead of being offered counseling. His alcoholism led to his discharge. He fought alcoholism his whole life and is proud he has been sober and working in a program for over five years and has been a productive member of society. He is requesting an upgrade to honorable as he feels had he been given an alcohol treatment option; he would have remained an asset to his squadron and continued his service until retirement.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force airman basic (E-1).

On 22 Feb 82, the applicant's commander recommended the applicant 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*. The specific reasons for the action were his apathy, defective attitude, and inability to expend effort constructively as evidenced by:

- a. Letter of Counseling (LOC), dated 10 Sep 80, for failing to prepare his dormitory room for standby inspection.
- b. LOC, dated 19 Nov 80, for failing to maintain dormitory room in proper order.
- c. LOC, dated 15 Jul 81, for being late for work.
- d. Dishonored check on 20 Jul 81, dated 24 Jul 81.

**AFBCMR Docket Number BC-2023-00378**

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

- e. LOC, dated 31 Jul 81, for failing to report for duty.
- f. LOC, dated 14 Aug 81, for reporting late for duty.
- g. Article 15, dated 28 Oct 81, for failing to report for duty, absent without leave (AWOL) for 11 days.
- h. Letter of Indebtedness, F----- T----- C-----, 25 Nov 81.
- i. Letter of Reprimand (LOR), dated 28 Dec 81, for a missed appointment
- j. Request for military personnel action, dated 11 Jan 82, due to delinquent account at Non-Commissioned Officer (NCO) Open Mess in the amount of \$74.15.
- k. Article 15, dated 22 Jan 82, for failure to report for duty.
- l. LOC, dated 4 Feb 82, for failing a scheduled dormitory inspection.

On 4 Mar 82, the Staff Judge Advocate found the discharge action legally sufficient.

On 5 Mar 82, the discharge authority directed the applicant be discharged with a general service characterization.

On 10 Mar 82, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Unsuitable – Apathy, Defective Attitude” and he was credited with 1 year and 11 months of total active service.

On 19 Jun 89, a letter from a County Court Services Office, dated 21 Jun 89, indicates the applicant was convicted of a Terroristic Threat.

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

## **POST-SERVICE INFORMATION**

On 16 Aug 23, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI) (Exhibit C); however, he has not replied.

## **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 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 for Personnel and Readiness issued supplemental guidance, known as the Wilkie Memo, 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 paragraphs 6 and 7 of the Wilkie Memo.

On 16 Aug 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 has been presented to support the applicant's request for an upgrade of his discharge. There was evidence he was evaluated at the mental health clinic (MHC) during service and was given a diagnosis of Alcohol Abuse. He was referred to attend Phase IV of the substance abuse program and Substance Awareness Seminar (SAS) for his alcohol issues, but no records were available to confirm completion of either recommendation. The applicant claimed he was not offered alcohol treatment, but his service treatment records (STR) clearly dispute his claim. He missed his appointment to attend the SAS and received an LOR as he was not amenable to the treatment and assistance he was offered for his alcohol problems. He provided no explanation in his application nor in his statements submitted at the time of service for the reason he missed his appointment. He claimed his alcohol problems caused his discharge; however, there was no evidence to support this claim as it is unknown when his alcohol problems began, but this is an unsuiting condition and no evidence he used alcohol to cope with his mental health condition and no records he had any alcohol-related misconduct that caused his discharge. The applicant's STR revealed he began to experience emotional distress in Oct 81 when he was AWOL for 11 days and was subsequently hospitalized upon his return because of anxiety. His emergency room (ER) notes reported he had personal problems related to his father's illness and relationship problems with his girlfriend. These problems, described as "personal problems" in other parts of his records, were the reason for his AWOL according to his statement. These problems were presumably the basis for his diagnosis of Adjustment Reaction causing his anxiety because his records indicated they were his situational stressors but were resolved according to the applicant's statement. The applicant's emotional distress stemming from his personal problems may explain and cause him to be AWOL but does not excuse his behaviors. As stated, the applicant's mental health problems were first documented and reported in Oct 81. It is possible he may have experienced mental health issues before this time, but he also had misconduct problems at least a year before his initial report of mental health issues, and no evidence of his mental health condition caused most of his documented acts of misconduct. He explained at the time of service his failure to maintain his dormitory room was caused by his roommate's refusal to assist in the cleanliness of their room, it was his roommate who made long-distance calls on his phone causing him to be in debt to the telephone company, he failed his room inspection because he had rips in his bedsheets, he failed to pay his NCO club bill because he had been reduced in rank and fined (Article 15) and did not have money to pay for his bill, it was his mistake for drafting a check with insufficient funds, he was late to work because he had car and telephone issues, and he did not report to work because the person he had to contact while he was on standby had left and was unable to find out if he had to work. Furthermore, he admitted to having no excuses for being late to work on several occasions. None of the

explanations he provided demonstrated a nexus existed between his mental health condition including his alcohol abuse issues and his poor behaviors and he did not address any of his poor behaviors in his application. He reported during his separation physical examination his anxiety and depression were related to his job. No further information was provided, but he was undergoing discharge processing to get discharged from the Air Force and had received numerous disciplinary actions at or by the time of his report. His anxiety and depression were in response to his occupational problems and did not cause his discharge according to his records.

The applicant wanted to get out of the Air Force and his mental health provider determined he was not suited for military life. The records to confirm his mental health provider's assessment were unavailable in his records and based on the available records, the AFRBA Psychological Advisor concurs he was not suited for military service. As referenced in the discharge evaluation report, the applicant had misconduct and behavioral problems throughout his brief time in service. It was apparent he had problems adhering to the military environment and structure and his behaviors and attitudes were deemed unsuited or unsuitable for service. His discharge was based on these issues, and the AFRBA Psychological Advisor finds no error or injustice with his discharge. It is noteworthy to mention his reason for discharge for having an unsuited apathy and defective attitude is not the same as having an unsuited character, personality, or mental disorder. His apathetic and defective attitude is not a mental health condition nor was categorized under mental health conditions. His type of discharge was for behaviors that were deemed unsatisfactory or unacceptable for a military setting. He did experience anxiety from adjusting to his situational personal stressors during service and had alcohol issues from unknown causes, but there was no evidence his mental health condition and substance abuse problems were mitigating factors to his discharge. Therefore, his request for an upgrade of his discharge could not be supported based on his 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 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 developed an addiction to alcohol and when he informed his supervisor of this problem, he was not offered any treatment. He claims his addiction to alcohol caused his discharge and if he had been given alcohol treatment, he would have remained an asset to his squadron and remain in the Air Force.

2. Did the condition exist, or experience occur during military service?  
There is evidence the applicant had presented to the ER 24 Oct 81 following his return from AWOL for complaints of anxiety or a "nervous breakdown" caused by his personal problems of his father's illness and problems with his girlfriend. He was subsequently hospitalized from 24 thru 26 Oct 81 and diagnosed with Adjustment Reaction and Alcohol Abuse presumably based on these issues. He was recommended to enter Phase IV of the substance abuse program and attend SAS to treat his alcohol problems. He missed his SAS appointment, and no records exist to confirm he completed any of his recommendations for substance abuse treatment. There was no information provided for the onset and causes of his alcohol problems.

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

There is no evidence the applicant's mental health condition or alcohol problems had a direct impact or was a mitigating factor to his discharge. His explanations provided at the time of service find no evidence his mental health condition or alcohol problems caused most of his misconduct and discharge. He had misconduct problems throughout his brief time in service and that also existed before his first report of having anxiety and alcohol problems in Oct 81 following his return from AWOL. His mental health condition including his alcohol problems does not excuse or mitigate his discharge.

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 19 Sep 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 discharge upgrade requests under fundamental fairness or clemency are technically untimely. However, it would be illogical to deny a discharge upgrade 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. Section 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. It appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. Additionally, 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. The Board notes the applicant's contention he was not offered help for his alcohol addiction; however, his service treatment records reflect otherwise. The Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request. The preponderance of evidence does not support he used alcohol to cope with his mental health condition in service or that his mental health condition caused his misconduct, thus his condition does not mitigate or excuse his discharge. The burden of proof is placed on the applicant to submit evidence to support his claim. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of post-service information and a criminal history report,

the Board finds no basis to do so. 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-2023-00378 in Executive Session on 18 Jan 24:

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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 13 Jan 23.
- 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 16 Aug 23.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 18 Sep 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 19 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.

12/5/2024

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Board Operations Manager, AFBCMR  
Signed by: USAF