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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00896

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her "Uncharacterized" Entry Level Separation (ELS) be upgraded to a medical separation.

APPLICANT'S CONTENTIONS

Her diagnosis received during Basic Military Training (BMT) is deserving of a medical separation and under honorable conditions. Her separation was rushed and incorrectly labeled as ELS.

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 9 Aug 22, DD Form 2807-2, *Accessions Medical History Report*, was signed by the applicant certifying the information on the form was true and complete to the best of her knowledge. In Section III, *Medical History*, the applicant discloses she received an evaluation or treatment either with medication or counseling for a behavioral/mental health condition. In Section IV, *Applicant Comments*, she states "While at basic training a Drill instructor recommended I go to Behavior Health. While there I self-admitted (sic) to some past traumas that I have witnessed. I went to one appointment after the initial and decided the service was not needed."

On 23 Jan 23, the applicant's commander recommended the applicant be discharged from the Air Force, document provided by the applicant, under the provisions of Department of Air Force Instruction (DAFI) 36-3211, *Military Separations*, paragraphs 7.14 and 7.15 for erroneous and fraudulent entry. The applicant was diagnosed with anxiety, panic attack, and syncope which is an unqualifying condition for military service.

On 4 Feb 23, the applicant received an "Uncharacterized" ELS. Her narrative reason for separation is "Erroneous Entry" and she was credited with 1 month and 22 days of total active service.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibits C and D.

AFBCMR Docket Number BC-2022-00037

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

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 for Personnel and Readiness (USD P&R) 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 of the Wilkie memorandum.

On 1 Dec 23, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit F).

DAFI 36-3211, describes the authorized service characterizations.

Honorable. The quality of the airman's service generally has met 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.

Under Honorable Conditions (General). 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 airman's military record.

Under Other than Honorable Conditions. When basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial.

Entry Level Separation. Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or
- The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the applicant's request to change her character of service to honorable and have a medical separation. A review of the applicant's record concluded there was no error or injustice with the applicant's discharge processing. The Base Discharge Authority determined had the facts been known about the applicant's preexisting condition, the applicant would not have been allowed to enlist in the military. Furthermore, service members are in entry level status when discharge is initiated in the first 180 days of active service. The applicant was within 180 days and therefore is an entry level separation with uncharacterized service.

The complete advisory opinion is at Exhibit C.

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for the desired changes to her record. The applicant did not address her mental health condition(s) in her petition. A review of the available records finds no evidence to support her request for a medical separation or upgrade of her character of service discharge. During her brief time in service, she had presented to the emergency room (ER) at least eight times to include two brief hospitalizations primarily for her physical condition of syncope and were periodically related to having anxiety and panic attacks. It was noted her condition of syncope was "most likely due to psychosomatic cause with anxiety and stress" which was annotated on her assessment by the ER physician on 26 Dec 22. She denied having anxiety to her providers, but there was no medical etiology found for her repeated complaints of chest pains, level of consciousness, and other physical issues. Her anxiety was possibly related to her adjustment to the BMT environment as indicated by the ER physician. Additionally, in her records she previously had difficulties with BMT when she was enlisted in the Army in 2021 and was discharged from the Army under ELS as well. Her anxiety and panic attacks were considered to be disqualifying conditions. Additionally, her waiver request application reported she experienced visual hallucinations and had a history of childhood trauma and adult sexual abuse. These conditions and experiences may interfere with her ability to function appropriately in the military environment and are also disqualifying for service. It was implied her mental health conditions had existed prior to service (EPTS) based on cited regulation of Department of Defense Instruction (DoDI) 6130.03, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, Chapter 6.28 for Disqualifying for Military Service for Learning, Psychiatric, and Behavioral Disorders used to support her ELS from her Primary Care Manager (PCM). There is no evidence her mental health conditions were permanently aggravated (rather more likely temporarily exacerbated) by her military service. Her disqualifying mental health conditions are not the same as unfitting conditions. Disqualifying conditions do not meet accession standards and had she disclosed these conditions during her Military Entrance Processing Station (MEPS) examination, which she did not, she would not have been allowed to enlist into the Air Force. There is no evidence any of her mental health conditions were unfitting that would meet criteria for a referral to the Medical Evaluation Board (MEB). She was never placed on a duty limiting condition profile for her mental health conditions and at no point, deemed not worldwide qualified due to her mental health conditions. Her PCM reported there were no findings to support she required an MEB especially since her conditions were EPTS.

The applicant believed her ELS was rushed and she should have been discharged under honorable conditions. There is no evidence to support her contentions or beliefs. There is ample evidence to support her ELS discharge for her disqualifying conditions and her ELS discharge was expedited from the recommendation of her PCM. Her expedited discharge was an appropriate course of action because of her repeated and acute conditions resulting in multiple ER visits and hospitalizations. Again, her mental health conditions were not compatible to the rigors of a military setting. She received an Uncharacterized character of service because she was separated under ELS, serving less than 180 days of continuous active military service. This characterization is consistent and in accordance DAFI 36-3211.

After an exhaustive review of the available records, the Psychological Advisor finds insufficient evidence has been presented to support the applicant's request for a medical separation or upgrade

of her character of service. There is no error or injustice identified with her discharge. The Psychological Advisor opines liberal consideration is not required to be applied to her request for an upgrade of her discharge because her mental health conditions EPTS without service aggravation per policy guidance. Furthermore, liberal consideration is not appropriate to be applied to her request for a medical separation because this policy is not applicable to medical separation or discharge request. Should the Board choose to apply liberal consideration to her petition for an upgrade of her discharge, the following are responses based on the available records to the four questions from the Kurta memorandum:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The applicant did not make any contention regarding how her mental health condition(s) may excuse or mitigate her discharge. She was discharged under ELS for having disqualifying mental health conditions of anxiety and panic attacks (also physical condition of syncope).

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

There are no records to confirm the applicant received any mental health evaluation or treatment from a mental health provider during her Air Force service. She was evaluated by her PCM and the Flight Commander reviewed and concurred with the results of the evaluation. She presented to the ER at least eight times with two brief hospitalizations primarily for her physical condition of syncope and at times related to having anxiety and panic attacks. Her anxiety and panic attacks were reported to have EPTS. She was also reported to have experienced visual hallucinations during service.

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

The applicant's mental health conditions were found to have EPTS and not aggravated by her military service. She was discharged under ELS and furnished with an Uncharacterized character of service in accordance with regulation for having disqualifying mental health conditions that she did not report during her MEPS examination. There is no error or injustice with her discharge and thus, her mental health conditions do not excuse or mitigate her discharge.

4. Does the condition or experience outweigh the discharge?

Since there is no evidence her mental health conditions may excuse or mitigate her discharge, her mental health conditions also do not outweigh her original discharge.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATIONS

The Board sent a copy of the advisory opinions to the applicant on 16 May 23 for comment (Exhibit E), 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the applicant's mental health conditions EPTS and were not caused by or aggravated by her military service. She was in the service for 1 month and 22 days and did not report her conditions during her MEPS process. The characterization of the applicant's service was deemed uncharacterized as the applicant did not complete the entry level status of 180 days of active service as detailed in AFI 36-3208. Furthermore, the Board considered the applicant's request under liberal consideration; however, the Board finds her mental health conditions EPTS, therefore determined liberal consideration does not apply. 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 Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00896 in Executive Session on 18 Jan 24:

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Panel Chair

, Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, dated 7 Mar 23.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFPC DPMSSR, dated 12 Apr 23.

Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 3 May 23.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 16 May 23.

Exhibit F: Letter, SAF/MRBC, w/atchs (Liberal Consideration Guidance),
dated 1 Dec 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.

2/9/2024

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Board Operations Manager, AFBCMR
Signed by: USAF

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