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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01425

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her grade be changed from second lieutenant (O-1) to first lieutenant (O-2) and she be given backpay associated with the grade change.

APPLICANT'S CONTENTIONS

She had over two years of work as a Registered Nurse (RN) and three years of college (pre-med) before becoming an Air Force RN, but a noncommissioned officer did not complete her application properly. Additionally, she was falsely imprisoned and brutally raped by an Air Force colonel (O-6) in Jan 68 and her first husband, and an airman, moved into her house and used her credit cards, cashed her Air Force paychecks, constantly beat her, molested their children, and threatened to kill them. She did not receive any help. She was a prisoner in her own home. Due to the multiple traumas and threats, she was afraid but now she desperately needs money to pay for surgeries on her spine. She has 20 discs that are compressing her spinal cord and the surgery she requires is not performed in the United States so she must pay out-of-pocket for it in Work-Product, or the neuropathy will completely disable her.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force Reserve second lieutenant (O-1).

According to the applicant's Constructive Credit Computation, dated 30 September 1967, she was given credit for 1 year, 9 months, and 21 days.

On 11 November 1967, according to DD Form 220, *Active Duty Report*, the applicant entered the Regular Air Force in the grade of second lieutenant (O-1).

On 2 April 1968, the applicant's commander recommended discharge action under Air Force Regulation (AFR) 36-3, *Officer Personnel, Administrative Discharge Procedures*, be initiated for reasons outlined in paragraph 4f. Specifically, the applicant's apathy and defective attitude were readily apparent during the short time she was assigned to the unit and confirmed by a psychiatric evaluation conducted on 13 Mar 68 she had a character and behavior disorder and should be separated as soon as possible. The applicant was notified of this action on 10 April 1968.

On 19 April 1968, the applicant responded to the notification and tendered her resignation in lieu of administrative discharge actions under AFR 36-3.

AFBCMR Docket Number BC-2023-01425

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

On 20 May 1968, the Assistant Deputy Chief of Staff of Personnel recommended acceptance of the applicant's resignation and requested the earliest possible date as being in the best interest of the individual and the Air Force.

On 18 June 1968, upon recommendation of the Air Force Personnel Board, the Secretary of the Air Force accepted the resignation submitted by the applicant under provisions of AFR 36-12, *Administrative Separation of Commissioned Officers*, paragraph 16j in lieu of further action under the provisions of AFR 36-3 and directed the applicant be discharge with an honorable characterization.

According to DD Form 214, the applicant was issued an honorable discharge on 5 July 1968 in the grade of second lieutenant (O-1). She was credited with 7 months and 25 days of total active service. She was credited with 9 months and 10 days of total service for basic pay purposes.

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

APPLICABLE AUTHORITY/GUIDANCE

On 25 August 2017, 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, 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:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
2. Did that condition exist/experience occur during military service?
3. Does that condition, or experience actually excuse or mitigate the discharge?
4. Does that condition, or experience outweigh the discharge?

AIR FORCE EVALUATIONS

AFPC/DPMSPP (Officer Promotions) recommends denying the applicant's request for promotion from second lieutenant (O-1) to first lieutenant (O-2) and correction in pay. There is no evidence the applicant was ever promoted to first lieutenant (O-2). The applicant's supplied transcripts states "Summer Session I 67 Withdrew from all classes 11 May 1967 before receiving any credit;" another shows she earned her Bachelor of Science in Nursing in 1979, after her service dates. Her AF Form 24, *Application for Appointment as Reserve Officer*, states she attended an Anesthesia course from 7 November 1966 to 25 March 1967 but did not receive a diploma. Based on the

documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

The complete advisory opinion is at Exhibit C.

The AFRBA Psychological Advisor completed an extensive review of all available records including the applicant's submissions and contentions and finds insufficient evidence to support a change in grade from second lieutenant (O-1) to first lieutenant (O-2) and correction in pay from a mental health perspective. While the applicant is contending Military Sexual Trauma (MST), this experience or any mental health diagnosis, does not appear to be the reason she entered the military at the grade of second lieutenant (O-1). A constructive credit computation worksheet credited her with 1 year, 9 months, and 21 days and assigned her the grade of second lieutenant (O-1). A memorandum from the Department of the Air Force dated 21 December 2023 determined that "Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice."

The applicant was diagnosed with a passive-aggressive personality during her military service, an unsuiting mental health condition, not unfitting. This personality disorder and resulting behavior was more likely than not, the reason for her discharge. While she was diagnosed with PTSD, unspecified drug dependence, alcohol abuse in 1997 (approximately 29 years after military service, and major depressive disorder in 2019 (approximately 51 years after military service) there is insufficient evidence to suggest she had these mental health conditions during her military service. Additionally, her entry grade was determined before entering military service, before her contention of MST and other experiences.

The military's Disability Evaluation System, established to maintain a fit and vital fighting force, can by law, under 10 U.S.C., only offer compensation for those service incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on post-service progression of disease or injury. To the contrary, the Department of Veterans Affairs (DVA), operating under a different set of laws, 38 U.S.C., is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length of time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating awards as the level of impairment from a given medical condition may vary (improve or worsen) over the lifetime of the veteran. Therefore, there is insufficient evidence that she would qualify for a medical disability.

Liberal consideration is applied to the applicant's petition due to the contention of a mental health condition. The following are responses to the four questions from 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? She was diagnosed with a passive-aggressive personality while in the military. She also marked PTSD, TBI, Other Mental Health, and Sexual Assault/Harassment on her application.

2. Did the condition exist, or experience occur during military service? The applicant was diagnosed with a passive-aggressive personality during her military service, an unsuiting mental health condition, not unfitting. This personality disorder and resulting behavior was more likely than not, the reason for her discharge. While she was diagnosed with PTSD, unspecified drug dependence, alcohol abuse in 1997 (approximately 29 years after military service, and major

depressive disorder in 2019 (approximately 51 years after military service) there is insufficient evidence to suggest that she had these mental health conditions during her military service.

3. Does the condition or experience excuse or mitigate the discharge (entry rank into military service)? There are no mental health mitigating factors to update her rank to first lieutenant (O-2). While the applicant is contending MST, this experience, or any mental health diagnosis, does not appear to be the reason she entered the military at the rank of second lieutenant (O-1). Additionally, her entry rank was determined before entering into military service before her contention of MST and other experiences.

4. Does the condition or experience outweigh the discharge (entry rank into military service)? Since the applicant's mental health condition does not excuse or mitigate her entry rank, the applicant's condition also does not outweigh the original determined rank on entering the military.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATIONS

The Board sent copies of the advisory opinions to the applicant on 13 February 2024 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 and recommendation of AFPC/DPMSPP and the rationale of the AFBCMR Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Therefore, the Board recommends against correcting the applicant's records. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely. The Board did not apply liberal consideration to the applicant's request as the Kurta memorandum only applies to requests for discharge relief.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 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-2023-01425 in Executive Session on 11 June 2024:

AFBCMR Docket Number BC-2023-01425

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 10 April 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSP, dated 21 December 2023.
- Exhibit D: Advisory Opinion, BCMR/MH, dated 13 February 2024
- Exhibit E: Notification of Advisories, SAF/MRBC to Applicant, dated 13 February 2024.

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.

10/7/2024

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Board Operations Manager, AFBCMR

Signed by: Work-Product