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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02529

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

His discharge for a pattern of minor disciplinary infractions was related to drinking problems and alcohol abuse upon entering the Air Force. At the time, he believed alcohol use was open and acceptable, regardless of age, and although he attended counseling twice, he continued to drink. He did not realize his commander had recommended an honorable discharge until Apr 23, when he received copies of his military records (after losing them shortly after discharge). While his commander recommended an honorable discharge, the assistant staff judge advocate recommended a general discharge. He was hard on himself after his discharge and continued a pattern of self-destruction for several years. He willingly entered alcohol treatment in 1995 and has stayed sober since 19 Feb 95. He joined the Air Force to follow in the footsteps of his father, who died while on active duty in 1966. He is pursuing an honorable discharge to carry on his father's legacy.

In support of his request for clemency, the applicant provides copies of his airman performance reports from 1985.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 5 Feb 86, the applicant's commander recommended he be honorably discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*. The specific reasons for the action were:

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- a. On 5 Jan 85, he was stopped by the **Work-Product** **Work...** after brandishing a replica of a sawed-off shotgun, for which he received a letter of admonishment.
- b. On 24 Jan 85, he wrote a check for \$300.00 that was returned due to insufficient funds, for which he received a letter of reprimand (LOR) and placement on the unit control roster.
- c. On 26 Feb 85, he failed to go to a substance abuse control class, for which he received an LOR.
- d. On 24 Sep 85, he wrote three checks totaling \$23.00, that were returned due to insufficient funds, for which he received an LOR that was placed in his unfavorable information file (UIF).
- e. On 1 Jan 86, he was derelict in performing duties as a military working dog handler, for which he received an LOR.
- f. On 17 Jan 86, he was apprehended by the **Work...** for driving under the influence (DUI) of alcohol, for which he received an LOR that was placed in his UIF.

On 13 Feb 86, the Staff Judge Advocate found the discharge action legally sufficient.

On 20 Feb 86, the discharge authority directed the applicant be discharged for minor disciplinary infractions, with a general (under honorable conditions) characterization. Probation and rehabilitation were considered, but not offered.

On 21 Feb 86, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct-Pattern of Minor Disciplinary Infractions" and he was credited with three years, four months, and four 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.

POST-SERVICE INFORMATION

On 19 Mar 24, the Board sent the applicant a request for post-service information and advised the applicant he was required to provide a Federal Bureau of Investigation (FBI) Identity History Summary Check, which would indicate whether he had an arrest record. In the alternative, the applicant could provide proof of employment in which background checks are part of the hiring process (Exhibit C). The applicant replied on 2 Apr 24 and provided proof of his employment as an emergency medical technician, which requires FBI background checks. The applicant also provided a character reference and his paramedic certificate.

The applicant's complete response is at Exhibit E.

APPLICABLE AUTHORITY/GUIDANCE

On 3 Sep 14, the Secretary of Defense issued a memorandum, known as the Hagel Memo, 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 post-traumatic stress disorder (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, known as the Kurta Memo, 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 (MH) 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 MH 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 MH 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, 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 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 4 Apr 24, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued a memorandum, known as the Vazirani Memo, to military corrections boards considering cases involving both liberal consideration discharge relief requests and fitness determinations. This memorandum provides clarifying guidance regarding the application of liberal consideration in petitions requesting the correction of a military or naval record to establish eligibility for medical retirement or separation benefits pursuant to 10 U.S.C. § 1552. It is DoD policy that the application of liberal consideration does not apply to fitness determinations; this is an entirely separate Military Department in determining whether, prior to "severance from military service," the applicant was medically fit for military service (i.e., fitness determination). While the military corrections boards are expected to apply liberal consideration to discharge relief requests seeking a change to the narrative reason for discharge where the applicant alleges combat - or military sexual trauma (MST)-related PTSD or TBI potentially contributed to the circumstances resulting in severance from military service, they should not apply liberal consideration to retroactively assess the applicant's medical fitness for continued service prior to discharge in order to determine how the narrative reason should be revised. Accordingly, in the case of an applicant described in 10 U.S.C. § 1552(h)(l) who seeks a correction to their records to reflect eligibility for a medical retirement or separation, the military corrections boards will bifurcate its review. First, the military corrections boards will apply liberal consideration to the eligible applicant's assertion that combat- or MST-related PTSD or TBI potentially contributed to the circumstances resulting in their discharge or dismissal to determine whether any discharge relief, such as an upgrade or change to the narrative reason for discharge, is appropriate.

After making that determination, the military corrections boards will then separately assess the individual's claim of medical unfitness for continued service due to that PTSD or TBI condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

On 19 Mar 24, 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 completed a review of all available records and finds evidence he received substance abuse treatment presumably for his drinking problems during service. On 26 Feb 85, he received an LOR and was placed on the control roster for failing to attend a group session of the substance abuse control program. His service treatment records are not available for review, so the Psychological Advisor was unable to assess the reason for his treatment, condition or diagnosis, and/or frequency and duration of his participation in the program. The reason for missing his group session was not specified in the records, and there is no indication his failure to attend was caused by his alcohol abuse problems. While he received a DUI on 17 Feb 86, indicating he had alcohol problems, most of his remaining documented misconduct, to include issuing several checks with insufficient funds, brandishing a toy gun resulting in a felony traffic stop, and not utilizing his working dog, were not found to be caused by alcohol abuse. The applicant submitted statements explaining his behaviors, such as the bank not honoring issued checks when they said they would, and not being provided relief to take his military working dog out. None of these explanations were caused by his problems with alcohol. He did not provide an explanation for brandishing a toy gun, but even if had, this behavior was inappropriate and potentially dangerous and could not be excused by his alcohol abuse issues or any MH condition. Although the applicant claims his alcohol problems began during service because of the "open and acceptable use of alcohol," his official military records indicated most of his misconduct was not caused by alcohol abuse problems. Thus, his contention is not compelling nor sufficient to mitigate his discharge. Furthermore, alcohol or substance abuse is an unsuiting condition for continued military service and does not excuse or mitigate his numerous misdeeds resulting in his discharge from service. Therefore, the Psychological Advisor finds no error or injustice with his discharge from a MH perspective.

Liberal consideration is applied to the applicant's request for an upgrade of his discharge because he contended alcohol abuse issues. As a reminder, liberal consideration does **not** mandate an upgrade per policy guidance. The following are answers to the four questions from the Kurta Memo after reviewing the applicant's available records:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant contends his discharge was due to a pattern of minor disciplinary infractions and all were directly related to his alcohol abuse problems.
2. Did the condition exist or experience occur during military service?
There is evidence the applicant received substance abuse treatment presumably for his drinking problems during service, he received an LOR and was placed on the control roster for failing to attend a group session as part of the substance abuse control program on 26 Feb 85. His service treatment records are not available for review to assess the reason for his treatment, condition or diagnosis, and how long he participated in the program. There are no records showing he had any other MH conditions besides substance abuse problems during service.
3. Does the condition or experience actually excuse or mitigate the discharge?

The applicant's alcohol problems were determined to cause at least one of his misconducts of receiving a DUI but were not found to have caused or was a contributing factor to his remaining and numerous acts of misconduct. His misconduct of brandishing a toy gun was egregious and could not be excused or mitigated by his alcohol issues or MH condition. Additionally, alcohol abuse is an unsuiting condition for continued military service and does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since his MH condition of alcohol abuse 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 May 24 for comment (Exhibit F) 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. § 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on clemency. Specifically, the applicant provided a character reference and post-service information indicating he had successfully completed alcohol rehabilitation, served as a firefighter for over 20 years, and continues to work as a paramedic in his community. Therefore, the Board recommends the applicant's records be corrected as indicated below.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 21 February 1986, he was discharged with service characterized as honorable, a separation code of JFF and corresponding narrative reason for separation of Secretarial Authority.

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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-2023-02529 in Executive Session on 13 Aug 24:

- Work-Product** w..., Panel Chair
- Work-Product** Panel Member
- Work-Product** Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 21 Jul 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 19 Mar 24.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 28 Mar 23.
- Exhibit E: Applicant Response, w/atchs, dated 2 Apr 24.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 2 May 24.

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.

8/21/2025

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Board Operations Manager, AFBCMR

Signed by: **Work-Product**

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