



Work-Product

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03485

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT’S REQUEST

1. His “Uncharacterized” Entry Level Separation (ELS) be upgraded to a general discharge.
2. His narrative reason for separation be changed to denote “Member Discharged for Conditions Incurred in the Training Line of Duty Which Interfered with Continued Military Training per Commander.”

APPLICANT’S CONTENTIONS

When he enlisted, he was in great physical and mental shape. In Nov 99, he suffered from a major orthopedic injury while running drills during training. He was forced to continue to march while in dire pain and swelling and remained in training with a fractured ankle and foot. Due to this, he was placed in the discharge squadron and was traumatized by his treatment as well as witnessing other recruits attempt suicide or going absent without leave (AWOL). The commander’s discharge statements and memorandums state there were no pre-existing personality disorders and recommended a training separation due to impairments. His “Uncharacterized” discharge has created disadvantages and difficulties at the local and federal level for job assistance. His record appears to suggest some type of failure to adjust to military training when in fact, he was injured in the line of duty (LOD).

The applicant’s complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 9 Dec 99, 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 for conditions that interfere with military service, specifically under paragraph 5.11.1, under mental disorders. The specific reason for the action was due to the Mental Health Evaluation on 3 Dec 99 diagnosing the applicant with phase of life problem, maladjustment to military service, moderate severity for which this diagnosis did not meet retention standards for continued military

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service. Also listed under the diagnosis is a fractured right foot, unstable. It is noted he was recommended for six weeks of convalescent leave to recover from a broken foot; however, due to his negative emotional response to Basic Military Training (BMT), little value would be gained by convalescing for his foot with a possibility he would not return to BMT.

On 14 Dec 99, the discharge authority directed the applicant receive an entry level separation (ELS) due to his mental health diagnosis, with an uncharacterized service characterization.

On 16 Dec 99, the applicant received an "Uncharacterized" ELS. His narrative reason for separation is "Personality Disorder" and he was credited with one month of total active service.

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

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 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 4 Apr 24, the Under Secretary of Defense for Personnel and Readiness 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. Section 1552. It is DoD policy the application of liberal consideration does not apply to fitness determinations; this is an entirely separate Military Department determination regarding 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. Section 1552(h)(1) 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 22 Oct 24, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit H).

AFI 36-3208, *Administrative Separation of Airmen*, dated 14 Oct 94, describes the authorized service characterizations that were applicable at the time of the applicant's separation.

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.

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/DP2SSR recommends denying the application finding no evidence of an error or injustice with the discharge process. Airmen are in entry level status during the first 180 days of continuous active military service. The Department of Defense (DoD) determined if a member served less than 180 days continuous active service, it would be unfair to the member and the service to characterize their limited service.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 2 Apr 24 for comment (Exhibit D), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request. Although there is no error or injustice identified with the applicant's administrative discharge from service, an error and injustice are identified with his current narrative reason, "Personality Disorder," listed on his DD Form 214. There is no evidence or records he had a personality disorder during service or was discharged from the service for this reason. The Psychological Advisor recommends the Board change his narrative reason to "Condition Not a Disability" as this is the correct reason for his discharge.

This advisory is limited to the applicant's mental health condition and a review of the available records finds the applicant clearly had problems adjusting to the military that were exacerbated, but not permanently aggravated, by his physical condition of a fractured right foot. This was evidenced by and reported in the mental health evaluation report dated 3 Dec 99. Additionally, it was reported his emotional response to BMT was so strong and so negative, there was little value in sending him home for a six-week convalescent leave for his foot injury as he most likely would not return to BMT. He was determined to not have a thought disorder, major affective disturbance, or personality disorder. The applicant marked "PTSD" on his application to the AFBCMR and contended he was traumatized by his treatment or condition (for his physical condition/injury) and witnessed other recruits attempting suicide or dangerous AWOL. While it is possible these experiences may have occurred, there is no evidence or records he had PTSD or a similar condition during service or he had reported having any of these experiences during service. There are no records he was ever diagnosed with PTSD by a duly qualified mental health professional in his lifetime and this condition was not the cause of his ELS discharge. He also contends he suffered from anxiety and depression, but these conditions or symptoms were caused and triggered by his post-service stressors due to his "Uncharacterized" character of service per his statement, and not from his military service. His mental health evaluation report indicated he may have experienced some anxiety and/or depressive symptoms from his adjustment difficulties to the military and possible safety concerns, but the report also stated he did not have a major affective disturbance, which is depression. He was not given any depressive or anxiety disorder diagnosis during service. His anxiety and/or depression were also not the cause of his discharge. He had difficulties adjusting to the military and this was the reason for his discharge. There is no error or injustice identified with his mental disorder or diagnosis of Phase of Life Problem, maladjustment to military service, and moderate severity, given during service. This is an unsuited mental health condition meeting the criteria for an administrative separation. He claimed his local government/veteran officials believed he should have received an honorable discharge or medical discharge; however, there is no evidence or records to support any of these opinions. Furthermore, there is no evidence or records he had any unfitting mental health conditions including PTSD, anxiety, or depression that would meet the criteria for a medical discharge. There are no records he was ever placed on duty limiting condition profile because of his mental health condition and was never deemed not worldwide qualified due to his mental health condition. He was furnished with an "Uncharacterized" character of service under ELS because he served less than 180 days of continuous active military service.

Although there is no error or injustice with his administrative discharge from service, there is an error made with his narrative reason for separation listed on his current DD Form 214, "Personality Disorder," which is currently listed as his narrative reason for separation. There is no evidence or

records he had or was ever diagnosed with a personality disorder during service. The mental health provider also documented this fact in his mental health evaluation report stating he had no disqualifying personality disorder. Personality disorders and Phase of Life Problems are both unsuiting conditions resulting in an administrative discharge. This was most likely the reason for the administrative error as these conditions share the same classification.

Liberal consideration is applied to the applicant's request for an upgrade of his discharge due to his contention of having a mental health condition per the Kurta Memorandum. It is reminded liberal consideration does not mandate an upgrade per policy guidance. Liberal consideration is not applied to his request for a medical discharge because this policy does not apply to this type of request per the Vazirani Memorandum. 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 contended he suffered from a major orthopedic injury while running drills at BMT; he fractured his ankle and foot. He marked "PTSD" on his application and said he was traumatized by his condition and treatment for his physical condition as well as witnessing other recruits attempting suicide or dangerous AWOLs. He contended the mental health provider stated he had no pre-existing personality disorder and recommended a training separation based on his impairments. He claimed his local government/veteran officials believed he should have received an honorable discharge or medical discharge. He claimed he has anxiety and depression from his post-service stressors/difficulties due to his service characterization.

2. Did the condition exist or experience occur during military service?
There is no evidence the applicant had or was diagnosed with PTSD, anxiety, or depression during service. His anxiety and depression were caused by his post-service stressors and not by his military service. It was alluded he may have had anxiety and depressive symptoms caused by his adjustment difficulties to the military but no records he was diagnosed with any anxiety or depressive disorders during service. He was evaluated during service and was diagnosed with Phase of Life Problem, maladjustment to military service, and moderate severity.

3. Does the condition or experience actually excuse or mitigate the discharge?
The applicant had an unsuiting mental health condition identified as a Phase of Life Problem, maladjustment to military service, and moderate severity during service. There is no error or injustice with this diagnosis or his administrative discharge for his unsuiting mental health condition. His unsuiting mental health condition may have caused his discharge, but it 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 E.

The AFBCMR Medical Advisor recommends denying the application. His submitted evidence did not definitively show any sort of a disqualifying or unfitting medical condition throughout his brief period of military service to substantiate a medically related separation. Evidence of such a major orthopedic injury was not presented and therefore, a professional opinion as to a fitness status for a physical condition could not be assessed.

Other than the sole behavioral health evaluation, medical records during his reported time in service were not available for review. He contends he did not fail to adjust to military training but rather was injured in the line of training; however, evidentiary proof of reported medical history was simply not seen. The applicant's listed diagnosis of Phase of Life problem, maladjustment to military service, moderate severity clearly denotes and would explain a type of failure to adjust to military training. The Medical Advisor's focus is to determine if either an error or an injustice occurred in the processing of the applicant's separation from service. It appears the applicant questions the comment of him exhibiting some type of failure to adjust to military training or service but rather a focus about a physical injury and its aftermath treatment, which from a self-reported perspective was a fracture about his right foot. However, with no medical documentation regarding such an injury, the Medical Advisor is unable to determine the extent severity of any foot injury as to determine if such an injury/condition was unfitting for continued military service and therefore, processing via the Disability Evaluation System (DES) for a possible medical separation would be appropriate. The burden of proof is placed on the applicant to submit accurate and true evidence to support his or her request. The evidence that was submitted coupled with DoD held documents did not reveal any focus to a medically related discharge for an adverse physical condition. The applicant's primary listed diagnosis of a mental health condition overwhelmingly was the nexus for an administrative separation.

The complete advisory opinion is at Exhibit F.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 16 Oct 24 for comment (Exhibit G), 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 or injustice, in part and recommends correcting the applicant's records as indicated below. However, the Board recommends against correcting his records for the remainder of his requests. It is noted the applicant contends he suffered from a major orthopedic injury during BMT and was forced to continue to march with a fractured ankle and foot; however, other than the Mental Health Evaluation mentioning the broken foot diagnosis and the need for convalescent leave to recover, no other medical documentation was found describing this injury or its severity. The Board finds

the preponderance of evidence does not indicate his foot injury was of a permanent nature and would have qualified for a compensable medical separation. It is the applicant’s responsibility to provide evidence to support his claim. Regardless of the applicant’s foot injury, this was not the reason for his discharge as it was recommended, he convalesce to recover before continuing in his military training. The reason for his discharge was due to his inability to adjust to military service as stated in his Mental Health Evaluation and the Board finds no error or injustice occurred regarding this finding or with the applicant’s discharge. His discharge was consistent with the substantive requirements of the discharge regulation and was within the commander’s discretion. Notwithstanding, the Board does agree with the AFRBA Psychological Advisor in finding the applicant’s narrative reason for discharge is incorrectly stated as “Personality Disorder” and recommends correcting this as indicated below. However, his request for a medical separation or a service characterization other than “Uncharacterized” is not supported by the evidence presented. The applicant only served one month of active service; therefore, the type of separation and character of service are correct as indicated on her DD Form 214. Airmen are given entry level separation with uncharacterized service when they fail to complete a minimum of 180 days of continuous active military service and the Board finds no unusual circumstances of personal conduct and performance of military duty which would warrant a characterization of honorable. Lastly, standardized separation program designator (SPD) codes and corresponding narrative reasons are developed by the Undersecretary of Defense for Personnel and Readiness (OUSD P&R) for DoD-wide use. These are not subject to free text entries on the DD Form 214; therefore, the applicant’s request to have his reason for separation changed to “Member Discharged for Conditions Incurred in the Training Line of Duty Which Interfered with Continued Military Training per Commander” cannot be granted.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 16 December 1999, he was discharged with a separation code and corresponding narrative reason for separation of JFV (Condition, Not A Disability).

However, regarding the remainder of the applicant’s request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2023-03485 in Executive Session on 20 Nov 24:

Work-Product Panel Chair
Work-Product, Panel Member
Panel Member

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

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- Exhibit A: Application, DD Form 149, w/atchs, dated 16 Oct 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Master Advisory Opinion, AFPC/DPMSSR, sent 2 Apr 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Apr 24.
- Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 1 Jul 24.
- Exhibit F: Advisory Opinion, AFBCMR Medical Advisor, dated 15 Oct 24.
- Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Oct 24.
- Exhibit H: Letter (Liberal Consideration Guidance), SAF/MRBC, dated 22 Oct 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.

12/6/2024

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Board Operations Manager, AFBCMR
Signed by: USAF

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