

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-04065

XXXXXXXXXXXXXXXXXX

**COUNSEL:** XXXXXXXXXXXXX

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

Her DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 25. *Narrative Reason for Separation*, be amended to reflect "Secretarial Authority" vice "Personality Disorder."

### APPLICANT'S CONTENTIONS

Per applicant's counsel, she requests her DD Form 214 be amended for both reasons of error and injustice. The applicant did not have at the time of her discharge, and had never had, a personality disorder. In fact, the Air Force psychiatrist who evaluated the applicant prior to her discharge explicitly noted there was no evidence of personality disorder. Moreover, the applicant's unit failed to follow Air Force regulations in discharging her with personality disorder. Air Force regulations in place at the time of the applicant's separation required diagnosis of a personality disorder be confirmed by a psychiatrist or clinical psychologist, and such evaluation state the personality disorder was so severe, the member's ability to function effectively in the military environment was significantly impaired. No such report was ever created. Finally, since the applicant's discharge, the Air Force has put in place safeguards that would have almost certainly prevented her from being discharged with the improper characterization of personality disorder. Since her discharge from the Air Force, the applicant has suffered social stigma and missed potential employment opportunities because her DD Form 214 incorrectly describes her as having a personality disorder.

During the applicant's pre-enlistment physical in Dec 98, she reported no history of any mental health symptoms, treatments, or diagnoses. The examiner described her health as good, and she was cleared for duty. After completing basic training, the applicant underwent an additional medical screening on 3 Jun 99 to participate in the Explosive Ordnance Disposal (EOD) high risk training environment and was also medically cleared. The applicant was the only female in her EOD class and was treated differently than her male classmates and was picked on. On 24 Aug 99, the applicant visited the mental health clinic on her training base and reported she was having problems adapting to military life and wanted to leave the Air Force. During that appointment, and a later appointment, the applicant reported she was experiencing a high degree of stress from the difficult EOD training environment and the challenges of being one of the only females in the school. Although the applicant served a short period of time, there is no evidence of any misconduct or poor performance.

On 17 Nov 99, the applicant was informed she was being discharged. The narrative reason listed for her separation was personality disorder. Yet, none of her medical records prior to or during her service make any reference to her suffering from a personality disorder. In fact, after being evaluated by an Air Force psychiatrist, it was noted the applicant had a stable affect, no depressive symptoms, no thought disorders, and no evidence of a personality disorder. The Air Force psychiatrist indicated the applicant had an occupational problem. The Diagnostic and Statistical Manual of Psychiatric Disorders, Fifth Edition (DSM-V) notes a diagnosis of personality disorder requires an enduring pattern of personality structure and behavior, which is

apparent in adolescence or early childhood. There is no evidence in the applicant's records indicating she has ever had such a condition.

At the time of the applicant's separation, Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, provided specific requirements for the discharge of a service member if a commander determined a physical or mental condition, including personality disorder, interfered with the airman's assignment or duty performance. At that time, in order for a commander to discharge a service member for this reason, a psychiatrist or clinical psychologists must have conducted an evaluation and prepared a report confirming the existence of the personality disorder. The report was required to state the personality disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired. No such report exists in the applicant's records. No medical or psychological examination conducted during the applicant's service identified evidence of a personality disorder. Under Air Force regulations at this time, the applicant's commander was also required to formally counsel her concerning any alleged deficiencies and give her an opportunity to overcome them before being recommended for separation. There is no documentation in the applicant's records suggesting such a formal counseling occurred. In fact, there is no evidence of any misconduct or poor performance on the applicant's behalf.

Since her discharge, the applicant has never been told by any medical provider she has a personality disorder. An independent record review recently conducted by clinicians at George Mason University confirmed there is no evidence to support a diagnosis of personality disorder and notes from the applicant's visit with the Air Force doctor that examined her on 30 Aug 99, and a lack of prior psychiatric history, strongly support the applicant did not meet criteria for a personality disorder at the time of her discharge. Post-discharge, the applicant successfully held down employment and currently works for the United States government where she holds a clearance equivalent to Top Secret.

In Jul 20, the Air Force promulgated regulations<sup>1</sup> providing additional procedures and safeguards related to the discharge of airmen. These changes require, among other things:

- That the diagnosis must be based on the DSM-V;
- That "[o]bserved behavior of specific deficiencies should be documented in appropriate counseling and personnel records", and that the documentation will include "history from supervisors, peers, and others, as necessary to establish that the behavior is persistent, interferes with assignment to or performance of duty, and has continued after the member was counseled and afforded an opportunity to overcome the deficiencies";
- That a recommendation for discharge include "documentation from the member's supervisory chain that the condition or disorder has resulted in an adverse effect" on the member's assignment or duty performance;
- That the "member has been counseled in writing on the diagnosis and of the personality disorder..."

There is no evidence in the record of any of these steps having been taken by the applicant's command prior to her separation. Had these controls been in place at the time of the applicant's discharge, it is almost certain she would not have been discharged with a characterization of "personality disorder." Counsel also provided information regarding standards of review, exhaustion of remedies, and timeliness in support of this application.

The applicant's complete submission is at Exhibit A.

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<sup>1</sup> Air Force Guidance Memorandum to AFI 36-3208 (AFI36-3208\_AFGM2020-01), dated 1 Jul 20.

## **STATEMENT OF FACTS**

The applicant is an honorably discharged Air Force airman first class (E-3).

On 1 Nov 99, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, paragraph 5.11.1. The specific reason for the action was:

- On 22 Oct 99, [the applicant] was diagnosed by a psychiatrist as having an Occupational Problem as described in the DSM-V, which is so severe that her ability to function effectively in the military environment is significantly impaired. [The applicant's] disorder is evidenced by frequent crying spells.

On 5 Nov 99, the Staff Judge Advocate found the discharge action legally sufficient.

On 16 Nov 99, the discharge authority directed the applicant be discharged under the provisions of AFI 36-3208, with an honorable service characterization. Probation and rehabilitation were not deemed appropriate.

On 18 Nov 99, the applicant received an honorable discharge. Her narrative reason for separation is "Personality Disorder", her separation code is "JFX" [Personality Disorder], and she was credited with eight months and two 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.

## **APPLICABLE AUTHORITY/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 1 Jul 24, Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

## AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds although there is no error or injustice identified with the applicant's administrative discharge from service, an error and injustice are identified with the applicant's current narrative reason listed on her DD Form 214. This psychological advisor has reviewed the available records and concurs with the applicant's legal counsel and with the George Mason University mental health providers' opinions that the applicant did not have a personality disorder during service. Her military mental health provider/psychiatrist had clearly and consistently documented at three different times that the applicant did not have a personality disorder. She was given a diagnosis or condition of "Occupational Problem" due to her difficulties of adjusting to the military environment causing her to experience emotional distress and affecting her work performance. It appeared the applicant may have had an adjustment disorder. There is evidence she had occupational problems, was dissatisfied with being in the military, and expressed her desire of wanting to be discharged from the Air Force. The applicant's occupational problem was the unsuiting condition that caused and resulted in her administrative discharge and not a personality disorder. The records review report from the providers at George Mason University reported the applicant claimed her traumatic experiences (motor vehicle accident [MVA]) during her service impaired her ability to properly function in her professional and personal duties and responsibilities. The applicant had met with the psychiatrist on 30 Aug 99 reporting she had difficulties adjusting to the military, had occupational problems, and expressed a desire to be discharged. The applicant received one Letter of Counseling on 14 Sep 99. These reports and problems had occurred prior to her MVA on 23 Sep 99. There is no evidence her traumatic experiences caused her occupational problems as claimed. She had pre-existing occupational problems prior to her MVA. There is no error or injustice with her administrative discharge from service, but there is an administrative error made with her narrative reason for separation listed on her DD Form 214. Personality disorders and occupational problems are both unsuiting conditions, resulting in an administrative discharge. This was most likely the reason for the error as these conditions share the same classification. To correct this identifiable error, this psychological advisor recommends the Board change her narrative reason to "Condition Not a Disability." This narrative reason is the appropriate and correct reason for her actual separation from service. This is also an acceptable narrative reason for separation per liberal consideration guidance, Kurta Memorandum #17. The applicant's legal counsel is requesting a change of her narrative reason to "Secretarial Authority." This narrative reason is also acceptable under liberal consideration. The decision to change and choose the proper narrative reason for the applicant is at the Board's discretion.

Liberal consideration is applied to the applicant's request. 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?

The applicant's legal counsel contends there is an error and injustice on her DD Form 214 as it currently lists "Personality Disorder" as her narrative reason for separation. Her legal counsel contends the applicant never had or was never diagnosed with a personality disorder during service or in her lifetime.

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

The applicant's military mental health provider/psychiatrist had clearly and consistently documented at three different times that she did not have a personality disorder. She was never diagnosed with a personality disorder during service. This disorder or condition did not exist or occur during her military service. The applicant was given a diagnosis or condition of occupational problem due to her difficulties in adjusting to the military environment causing her to experience emotional distress. There is evidence she had occupational problems, was

dissatisfied with being in the military, and expressed a desire of wanting to be discharged from the Air Force.

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

The applicant's occupational problem and not personality disorder was the cause and reason for her discharge. Both conditions are unsuited for continued military service resulting in an administrative discharge; thus, there is no error or injustice with her administrative discharge. Her mental health condition or emotional distress caused her discharge but does not excuse or mitigate her discharge.

4. Does the condition or experience outweigh the discharge?

There is no error or injustice identified with the applicant's administrative discharge for having an unsuited mental health condition; her condition does not outweigh her original administrative discharge. There is, however, an administrative error with the narrative reason for separation currently listed on her DD Form 214. For this reason, the narrative reason for her separation should be corrected.

The complete advisory opinion is at Exhibit E.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 1 Jul 24 for comment (Exhibit E), and the applicant replied on 16 Jul 24. In his response, counsel, on behalf of the applicant welcomed the Psychological Advisor's conclusion the applicant did not have a personality disorder while in service and "Personality Disorder" should be removed from the narrative reason for separation on her DD Form 214. Counsel strongly disagrees with the recommendation the narrative reason for separation be changed to "Condition Not a Disability."

Under section 5.11.1 of the Air Force guidance in effect at the time of the applicant's discharge, a recommendation for discharge by reason of "Condition that Interferes with Military Service" (the term then used for "Condition Not a Disability"), where such discharge involved certain "Mental Disorders" required the discharge to: (i) be "supported by a report of evaluation by a psychiatrist or clinical psychologist that confirms the diagnosis of the disorder"; and (ii) "state [that] the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired." Section 5.11.1 listed the following mental disorders that could form a basis for such a discharge: personality disorders; disruptive behavior disorders; adjustment disorders; impulse control disorders; or "other disorders, as defined in D[S]M-IV that interfere with duty performance and are not within the purview of AFI 36-2902."

The advisory opinion suggests the applicant may have had an adjustment disorder but points to no diagnosis in her record that could have been the basis of such a discharge under Section 5.11.1. Alternatively, the advisory opinion points to a diagnosis of V62.20 Occupational Problem in the applicant record as a possible basis for discharge. However, Occupational Problem was classified under a "V" code in the DSM-IV and was not a disorder. "V" codes then indicated, and still indicate, "Other conditions that may be a focus of clinical attention." "V" code conditions, including "Occupational Problem", were excluded as disorders under the DSM-IV, and continue to be under DSM-V. Additionally, as the advisory opinion points out, clinicians at George Mason University recently concluded "no psychological diagnosis could be made from the information in [the applicant's] records" excluding a retroactive diagnosis of a "Mental Disorder" at the time of her discharge.

Further, Conditions that Interfere with Military Services/Conditions Not a Disability include a number of mental disorders. This broad umbrella term for various unfavorable conditions is no less stigmatizing, and in fact, includes Personality Disorder, and should not be used in the

narrative reason for separation. Finally, the Board has, in the past, granted relief to service members discharged with a narrative reason for separation of “Personality Disorder” by changing the narrative reason to “Secretarial Authority” including at least one case where the service member had been diagnosed with adjustment disorders while in service.

The applicant’s complete response is at Exhibit F.

## **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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board concurs with the rationale of the AFRBA Psychological Advisor regarding the existence of an administrative error on the applicant’s DD Form 214 and recommends relief based on liberal consideration. In particular, the Kurta Memorandum #17 addresses evidence, which may support more than one diagnosis or a change in diagnosis, particularly where the diagnosis is listed as the narrative reason for discharge, will be liberally construed as warranting a change. As there is no evidence the applicant was diagnosed with a personality disorder, or any mental health disorder, but instead was diagnosed with another unsuiting condition of occupational problems, a change to her narrative reason for separation to reflect Condition, Not a Disability, is appropriate. However, for the remainder of the applicant’s request, the evidence presented did not demonstrate an error or injustice, and the Board finds no basis to recommend granting that portion of the applicant’s request. Therefore, the Board recommends the applicant’s records be corrected as indicated below.

## **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 18 Nov 99, she was discharged with a narrative reason for separation of Condition, Not a Disability, and corresponding separation code of JFV.

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-2023-04065 in Executive Session on 20 Nov 24:

, Panel Chair  
, Panel Member  
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 30 Nov 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 1 Jul 24.  
Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 28 Jun 24.  
Exhibit E: Notification of Advisory, SAF/MRBC to Counsel, dated 1 Jul 24.  
Exhibit F: Counsel's Response, w/atchs, dated 16 Jul 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.

Board Operations Manager, AFBCMR