



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03078

Wor...

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COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

His official military personnel record be amended to reflect a medical retirement.

APPLICANT'S CONTENTIONS

He is requesting review of the type of discharge he was given without medical evaluation and consideration for being medically boarded. It is his belief if a medical evaluation had taken place, he would have been medically retired. Immediately upon separation, he applied for disability with the Department of Veterans Affairs (DVA). After medical evaluation had been completed, a 50 percent service-connected disability for A-type Psychosis was awarded. For this reason, he feels as though an accidental injustice occurred.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force senior airman (E-4).

On 21 May 08, according to *Voluntary Separation Application*, the applicant requested separation, for miscellaneous reasons, under Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, Chapter 3, paragraph 3.15. with a requested separation date of 15 Jun 08.

On 15 Mar 09, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was furnished an honorable discharge, with Narrative Reason for Separation: Miscellaneous/General Reasons, Separation Code: KND [Miscellaneous/General Reasons], Reentry Code: 4D [Grade is SrA/E-4, completed at least 9 years Total Active Federal Military Service (TAFMS), but fewer than 16 years TAFMS, and is not currently selected for promotion to SSgt/E-5], and credited with 11 years, 3 months, 27 days active service.

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

APPLICABLE AUTHORITY

In accordance with AFI 36-3208, Chapter 3, *Voluntary Separation Prior to Expiration of Term of Service (PETS)*:

AFBCMR Docket Number BC-2023-03078

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

3.15. *Miscellaneous Reasons.* Airmen who do not qualify for separation for another reason may ask for separation under this provision. As a rule, approve applications when the airman's early separation will serve the best interest of the Air Force. Usually, the requested date of separation should be no less than 2 or more than 12 months from the date of the application.

AIR FORCE EVALUATION

AFRBA Psychological Advisor finds insufficient evidence to support the applicant's request for the desired change to his records based on his mental health condition.

A review of the applicant's available records finds the applicant did not have any unfitting mental health conditions that would support his request for a medical discharge/retirement. There is evidence and records he voluntarily sought and received different iterations of mental health treatment for various stressors and problems during service. During his first brief iteration of treatment beginning in Aug 06, he was in emotional distress when his former girlfriend took their son and moved out of the state making it difficult for him to see his son. He became anxious and depressed worrying about his son and reacting to the change in his family situation and stressors. With psychotherapy services, he was able to adapt to the new changes in his life, was able to cope better with his son being away, co-parent with his son's mother, and manage his stressors. He stopped attending in Nov 06 most likely because of his improved mood and situation. He was given a diagnosis of Adjustment Disorder with Mixed Anxiety and Depressed Mood and due to the onset, length, and improvement of his identifiable stressors and symptoms, this diagnosis was appropriate and valid for his clinical presentation at the time. This condition was considered to be "acute" because his symptoms lasted less than six months in accordance with the current version of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR). An acute adjustment disorder is also considered to be an unsuiting condition for continued military service that may result in an administrative separation and not medical discharge. Moreover, he was consistently determined to be fit for duty, and receiving mental health treatment and/or a mental disorder diagnosis does not automatically render a condition unfitting. There is no evidence or records he reported or displayed psychosis or psychotic symptoms during this iteration of treatment.

The applicant returned to mental health treatment for the second time in Jul 07 for complaints of memory and attention problems causing him difficulties performing his duties and resulting in him receiving an Unfavorable Information File (UIF). He received psychological testing services and although the full report or results were not available for review, his psychiatrist briefly reported his test results and identified he had a lifelong learning disorder or Learning Disorder NOS [Not Otherwise Specified] and met the diagnostic criteria for Attention-Deficit/Hyperactivity Disorder (ADHD), Predominately Inattentive Type. His Learning Disorder had existed prior to service (EPTS) and his ADHD most likely was also EPTS because this type of disorder typically begins in childhood per the DSM-5-TR. There is no evidence or records that any of these EPTS conditions were permanently aggravated beyond the natural progression of the disease by his military service. Additionally, these conditions are also classified as unsuiting conditions and would not meet the criteria to be referred to the Medical Evaluation Board (MEB) for a potential medical discharge or retirement. The applicant again received brief psychotherapy treatment ending in Oct 07 because his mood was stable, his concentration had improved, and he was dealing with problems at work. He was determined to be fit for duty and worldwide qualified (WWQ) by his psychotherapy provider at the time of treatment termination. The applicant continued to receive medication management treatment services with this psychiatrist and then with his Primary Care Manager (PCM) after his psychotherapy treatment was terminated. He was placed on a temporary Duty Limiting Condition (DLC) profile to adjust to his new psychotropic medications by his psychiatrist and this is standard operating procedure. During his last visit with his psychiatrist on 3 Oct 07,

his profile had changed to S1 for no duty limitations, and he was determined to be WWQ and deployable. His psychiatrist assessed he had minimal symptoms and his diagnosis and treatment resulted in no impairments or potential impairments to his military duties, risk to mission, or his ability to maintain a security clearance. With medication usage, his ADHD symptoms were reported to be improved, and his Learning Disorder was reported to be stable by his psychiatrist, which was congruent with his psychotherapy provider's assessment. There is no evidence or records he reported or displayed psychotic symptoms during this second iteration of treatment.

The applicant returned to mental health/psychotherapy treatment for the third and final time starting in Jun 08 for complaints of occupational problems causing him to have anxiety. He attended several stress management group sessions which helped him develop coping skills to manage his stress. During this last iteration of treatment, his relationship problems with his son's mother had exacerbated leading to him to present at the urgent care center on 26 Aug 08 because he had engaged in self-harming and destructive behaviors from getting into an argument with his son's mother. He did not report or display any psychotic symptoms at the urgent care center. He was seen later in the day at the Life Skills Support Center/Mental Health Clinic after his visit to the urgent care center and this visit was the first time he was reported to have or displayed paranoid and delusional thinking surrounding safety concerns for his child and his son's mother. The next several individual psychotherapy sessions did not mention any of these behaviors or symptoms but a couple of notes in Oct 08 reported he was ruminating over his work stress, had loosening of associations, and flight of ideas. However, these notes reported he had received an Article 15, lost a stripe, and was worried about what his command was going to do with him. These types of thoughts were in reaction to his work stress causing him to have anxiety and not because of psychosis. These anxious-type thoughts were congruent with his stressful situation. The majority of his post-urgent care treatment notes reported his thought content was appropriate and his thought process was common-sensical or goal-directed. His last available psychotherapy treatment note dated 12 Nov 08 indicated a return of his paranoid and delusional thinking as he had believed people such as his leadership, colleagues, and son's mother were lying to him and deliberately making his life difficult. He expressed concerns that his son's mother would run off with his son and he would never see his son again. Given the applicant's history and experiences with relationship issues with his son's mother and his work problems including receiving an Article 15, UIF, and referral enlisted performance report (EPR), his supposed paranoid and delusional thoughts are not completely irrational. These thoughts are concerning, and these types of thoughts would hint that he may have begun experiencing psychosis during service. He was never diagnosed with psychosis or any psychotic disorders such as Schizophrenia during service. It appeared he began to experience the onset of psychosis during service, but his symptoms did not fully develop during service which would make him unfit for continued military service. There is no evidence or records his paranoid or delusional thoughts impacted his ability to perform his military duties. He tended to develop these thoughts in response to experiencing significant situational stressors and these thoughts would dissipate once his stressors would dissipate or be reduced. His psychotherapy provider had assessed these thoughts were "Most likely due to low intellectual abilities" as he may not have the proper mental capacity to cope with stress adequately and would have these types of thoughts in lieu of more appropriate thoughts and behaviors. His various Adjustment Disorder diagnoses would best describe his functioning and behaviors and not a psychotic disorder. There were not enough symptoms present or reported at the time of service to suggest he had met the diagnostic criteria for any psychotic disorders including Schizophrenia during service. His mental health condition of an Adjustment Disorder during service or at or near the time of his discharge was consistently reported to be "acute" and not chronic. Again, acute conditions are categorized as unsuiting conditions and would meet the criteria for an administrative separation. There is no evidence he had any potentially unfitting conditions including Schizophrenia for a referral to the MEB for early career termination.

The applicant contends he did not receive a medical evaluation to determine if he was unfit for duty. While the available records support his contention that there was no formal evaluation specifically for the purpose of an MEB in his records, the applicant did receive an annual Physical Health Assessment (PHA) from his PCM and a follow-up PHA from a nurse practitioner (NP) in Nov 08, which had taken place a few months before his official separation from the Air Force. Both PHA reports acknowledged he had been meeting with a mental health provider for his Adjustment Disorder with Depressed Mood and was prescribed medications for ADHD and was to follow up with his mental health provider. The NP reported a change in job had alleviated his depression, he denied feeling down, depressed, or hopeless and did not lose interest in activities to the NP, he had no suicidal ideation/homicidal ideation (SI/HI), and he did not need any follow-up. He did not follow up for unknown reasons. Although the PHA was not a formal evaluation for the MEB, the purpose of a PHA is to assess medical readiness. Since he did not need any follow-up, he was medically cleared. Even without a formal evaluation, his mental health treatment records reflected he did not have any unfitting mental health conditions. He had unsuiting mental health conditions as discussed previously. The applicant did receive a referral EPR on 7 May 08 and an Article 15 on 24 Sep 08 for behavioral problems. However, these behavioral problems do not appear to be caused by his anxiety, depression, adjustment disorder, or psychosis. They may be caused by his ADHD or Learning Disorder, but these are unsuiting conditions and not unfitting conditions.

The applicant's psychosis or psychotic symptoms became more prominent almost immediately after he was officially discharged from the Air Force. According to his post-service DVA treatment records, the exacerbation and aggravation of his anxiety, depression/mood, and psychotic symptoms were caused as a result of his post-service stressors. He had difficulties adjusting from the military to civilian life because he was unemployed, resulting in financial problems. His relationship problems with his son's mother were also inflated after his discharge which resulted in him receiving a criminal stalking charge and an order of protection filed against him by his son's mother. These problems and stressors were not caused by his military duties or service. He was hospitalized for about a week in Apr 09, which was about one month after his military discharge, and was given a diagnosis of Adjustment Disorder with Mixed Disturbances of Moods and Conduct and a rule out of Psychosis NOS at hospital discharge. He was eventually given a confirmed diagnosis of Psychotic Disorder NOS when he initially met with his psychiatrist for a psychiatric evaluation following his hospital discharge on 4 May 09. His Psychotic Disorder or Psychosis NOS had developed further over time, and he was eventually given a diagnosis of Schizophrenia in Dec 10, almost two years after service, and he continues to be presently treated for this condition by the DVA. The applicant was reported to have been hospitalized in early Mar 09 for about three days for paranoid thoughts which may have coincided with his time in service while he was on terminal leave or before he was officially discharged from service. His hospitalization treatment records are not available or submitted for review. His hospitalization treatment does not automatically indicate he had an unfitting mental health condition and could also be an acute condition. The existing records do not support he had any unfitting mental health conditions during service. To reiterate, there is evidence he began to display psychotic symptoms of paranoid and delusional thoughts, but his psychotic symptoms at the time of service did not cause impairment to his overall functioning or his inability to perform his military duties in accordance with his office, grade, rank, or rating. One could experience a mental health condition during service, but it does not indicate the condition would make the individual unfit for service. His psychosis continued to develop after service and his clinical presentation and mental health condition after service are vastly different than his clinical presentation and condition experienced during service.

Finally, for awareness, since the applicant was granted service connection from the DVA for his mental health condition, Psychosis: The military's Disability Evaluation System, established to

maintain a fit and vital fighting force, can by law, under Title 10, United States Code (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 DVA, operating under a different set of laws, Title 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.

An exhaustive review of the applicant's available records finds no error or injustice with the applicant's discharge from a mental health perspective. There is insufficient evidence to support his request for medical retirement based on his mental health condition because he did not have any unfitting mental health conditions, including Schizophrenia, or any other psychotic disorders that would meet the criteria for a referral to the MEB for a possible medical discharge. He had unsuiting mental health conditions that would meet the criteria for an administrative separation, which he did receive but for a different reason (family hardship). Lastly, liberal consideration is not appropriate to be applied to the applicant's request because this policy does not apply to fitness determinations or medical discharge/retirement requests.

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 20 Mar 24 for comment (Exhibit D) 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 of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. There is no evidence the applicant was diagnosed with an unfitting condition which would require referral to a MEB for a fitness for duty determination. His mental health service treatment records reflect a condition which may have been unsuiting at that time and could have led to his administrative separation had he not already been discharged due to hardship. According to his DVA evaluation, it appears his psychosis continued to develop after his discharge, and his clinical presentation and mental health condition after service are vastly different from his clinical presentation and condition experienced during service. Liberal consideration was not applied as this policy does not apply to fitness determinations or medical discharge/retirement requests. 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 (DAFI) 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.

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 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-03078 in Executive Session on 18 Jun 24:

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, dated 22 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 13 Mar 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Mar 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.

7/18/2024

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF