



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03534

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He suffered from undiagnosed Post-Traumatic Stress Disorder (PTSD) during his Air Force service, leading to a discharge under AFR 39-10, *Administrative Separation of Airmen*. He was denied proper treatment during service. Post-service, his condition worsened resulting in a disability and is seeking a discharge upgrade to rectify this injustice.

In support of his request for a discharge upgrade, the applicant provides a letter from the Social Security Administration (SSA) dated 11 Mar 15, with information about his current social security benefits; a letter from the SSA about a referral for additional Medicaid assistance dated 11 Mar 15; and copies of his discharge documentation.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman (E-2).

On 9 Jan 86, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-10, paragraph 5-47b, for pattern of misconduct-conduct prejudicial to good order and discipline. The specific reasons for the action were:

- a. On 23 Dec 85, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for failure to go to his appointed place of duty on or about 16 Dec 85. He received a reduction in grade to airman, and forfeiture of \$100.00.

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[REDACTED]

b. On 11 Jan 85, AF Form 3070, indicates the applicant received NJP, Article 15 for being absent without authority on or about 31 Dec 84. He received a suspended reduction to airman basic (E-1), 30 days correctional custody, and forfeiture of \$50.00 per month for two months.

On 10 Jan 86, the Staff Judge Advocate found the discharge action legally sufficient.

On 17 Jan 86, the discharge authority directed the applicant be discharged with a general service characterization. Probation and rehabilitation were considered but not offered.

On 22 Jan 86, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct-Pattern Conduct Prejudicial to Good Order and Discipline" and he was credited with 1 year, 5 months, and 28 days of total active service.

On 27 Jun 89, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 27 Jul 90, the AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process.

On 29 Jan 13, the AFBCMR reviewed the applicant's request to have his narrative reason for separation changed to "Convenience of the Government" or changed to indicate he had a mental health condition. However, the Board denied his request agreeing with the rationale and recommendation from AFPC/DPSOR which found the discharge was appropriately administered and was within the discretion of the discharge authority.

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

POST-SERVICE INFORMATION

On 27 Jun 24, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI); however, he has not replied.

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.

[REDACTED]

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 27 Jun 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.

[REDACTED]

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. The applicant marked "PTSD" on his application. There is no evidence to support the applicant was ever diagnosed with PTSD in-service, at discharge, or post-service. There is insufficient evidence to suggest the applicant had any mental health condition during his service or at discharge. The applicant, at discharge, denied having any mental health symptoms as annotated on his *Report of Medical History*, dated 9 Jan 86. The examiner determined the applicant did not have any mental health symptoms at discharge as annotated on his *Report of Medical Examination*, dated 9 Jan 86. While the applicant was seen several times by the Department of Veterans Affairs (DVA) he was never diagnosed with PTSD. A homeless program note, dated 29 Mar 16 (30 years after his military discharge), indicated schizophrenia, psychotic disorder, bipolar disorder, military or non-military PTSD, anxiety disorder, affective disorder, or personality disorder were not treatment concerns. It was not until 18 Jun 24 (38 years after his military service), he was diagnosed with a mental health condition, mental disorder not otherwise specified (NOS). This diagnosis appears to be related to his current work stress and not related to his military service. There is no evidence he is on disability due to PTSD or any other mental health condition. The Psychological Advisor agrees with the past AFBCMR's decision the applicant did not provide any evidence an error or injustice occurred in the processing of his discharge. There is no evidence he had a mental health condition, including PTSD, at the time of his service or discharge. Additionally, the applicant did not submit any documentation he suffers from undiagnosed PTSD, stemming from service-related trauma, which worsened since discharge, resulting in a disability and service connection for PTSD. As noted above, there is no evidence of his contentions in the available records.

The Psychological Advisor concludes the applicant does not have any mental health condition which would mitigate his misconduct of failure to go and being absent without authority. After considering the entire record and contentions, there is insufficient evidence to suggest the applicant had any mental health condition that would mitigate his misconduct. A review of the available records finds no error or injustice with the applicant's discharge and insufficient evidence has been presented to support the applicant's request. 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?
The applicant checked PTSD on his application. The applicant contends he has undiagnosed PTSD stemming from service.

[REDACTED]

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

There is no evidence to support the applicant was ever diagnosed with PTSD in-service, at discharge, or post-service. There is insufficient evidence to suggest the applicant had any mental health condition during his service or at discharge. The applicant, at discharge, denied having any mental health symptoms (Report of Medical History, 9 Jan 86). The examiner determined the applicant did not have any mental health symptoms at discharge (Report of Medical Examination, 9 Jan 86). While the applicant was seen several times by the DVA he was never diagnosed with PTSD. A homeless program note, dated 29 Mar 16 (30 years after his military discharge), indicated schizophrenia, psychotic disorder, bipolar disorder, military or non-military PTSD, anxiety disorder, affective disorder, or personality disorder were not treatment concerns. It was not until 18 Jun 24 (38 years after his military service) he was diagnosed with a mental health condition, mental disorder NOS. This diagnosis appears to be related to his current work stress and not related to his military service. There is no evidence he is on disability due to PTSD or any other mental health condition.

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

The Psychological Advisor concludes the applicant does not have any mental health condition that would mitigate his misconduct of failure to go and being absent without authority.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate the discharge, the applicant's condition also does not outweigh the 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 23 Dec 24 for comment (Exhibit E) 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. Section 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 not the victim of an error or injustice. The Board finds the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly

[REDACTED]

harsh or disproportionate to the offenses committed. Furthermore, the Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions as the Board finds no evidence the applicant was diagnosed with a mental health disorder during service. Nonetheless, liberal consideration was applied to the applicant's request due to the contention of a mental health condition; however, since there is no evidence his mental health condition had a direct impact on his behaviors and misconduct resulting with his discharge, his condition or experience does not excuse, mitigate, or outweigh his discharge. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Lastly, the applicant claims he was denied medical treatment during service; however, the Board finds no evidence to support this claim. The applicant denied having any mental health issues during his medical examination in 1986. Therefore, the Board recommends against correcting the applicant's records.

The applicant retains the right to request reconsideration of this decision. The applicant may provide post-service evidence depicting his current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization due to clemency based on fundamental fairness.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-03534 in Executive Session on 16 Apr 25:

[REDACTED], Panel Chair
[REDACTED] Panel Member
[REDACTED] Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 25 Oct 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 27 Jun 24.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 19 Dec 24.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Dec 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.

4/30/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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