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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00689

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Her narrative reason for separation of "Fraudulent Entry" be changed.
2. Her separation (SPD) code of "JDA" be changed.
3. Her reentry (RE) code of "2C" be changed.

APPLICANT'S CONTENTIONS

This correction should be made as it is unjust. The conclusion of the separation was based on the findings of a medical diagnosis which holds no sustainability, showing contradictions from the same medical providers on multiple signed memoranda. Upon reviewing all Air Force Instruction (AFI)s being used as references for the diagnosis and conclusions made for the discharge coordination form, there is no sustainable conclusions to justify a fraudulent entry.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 1 Aug 17, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, Section 5c paragraph 5.15 for fraudulent entry. The specific reason for the action was, she intentionally concealed a prior service mental health condition, which if revealed, could have resulted in the rejection of her enlistment. The Air Force discovered she failed to inform the Military Entrance Processing Station (MEPS) and her recruiter she has a pre-service history of suicide ideation with a plan.

On 2 Aug 17, the discharge authority directed the applicant be discharged for fraudulent enlistment, with an "Uncharacterized" Entry Level Separation (ELS).

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On 3 Aug 17, the applicant received an uncharacterized ELS with no creditable service. Her narrative reason for separation is “Fraudulent Entry” with an SPD of “JDA” and a RE code of “2C” which denotes, involuntarily separated with an honorable discharge, or entry level separation without characterization of service.

On 12 Mar 23, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to her narrative reason, SPD and RE code. She believed the conversations and encounters while processing out of the military were misunderstood and should not have prohibited her from rejoining. She had no previous medical history before joining and had no diagnosis, thus making it unjust to be considered a fraudulent entry.

On 9 Aug 23, the AFDRB concluded the discharge was proper and equitable. The Board applied liberal consideration; however, it determined the applicant’s condition/s did not mitigate her discharge. Additionally, the Board noted evidence based on available records, the applicant may have had potentially disqualifying conditions at the time. Therefore, it was concluded no changes to the discharge were warranted.

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

POST-SERVICE INFORMATION

On 16 Apr 24, the Board sent the applicant a request for post-service information and advised the applicant she was required to provide a Federal Bureau of Investigation (FBI) Identity History Summary Check, which would indicate whether or not she 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 29 May 24 and provided an FBI report. According to the report, the applicant has had no arrests since discharge. The applicant also provided a character statement.

The applicant’s complete response is at Exhibit D.

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 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 16 Apr 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.

AFI 36-3208, *Administrative Separation of Airmen*, dated 8 Jun 17, describes the authorized service characterization that was applicable at the time of the applicant's separation.

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 (SAF) 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.

According to AFI 36-3202, *Separation Documents*, Table 4, note 3, time spent in an enlistment that is determined to be fraudulent and has been specifically terminated by reason of fraud is not creditable service.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request. After thoroughly examining the entire record, there appears to be evidence the applicant contemplated suicide and made preparatory plans to commit suicide prior to service and neglected to report it when she enlisted in the military. The applicant, when responding to an inquiry after her enlistment, on 19 Jul 17, noted on a handwritten response she told the recruiter her suicide thoughts and preparation was never more than a one-time situation. During a mental health evaluation on 17 Jul 17, the examiner noted she reported, during middle school she had periods of suicidal thoughts with plans and preparation.

When the applicant was applying for military service, before her actual enlistment, she repeatedly denied she had ever contemplated suicide. Records indicate she denied suicidal ideation/contemplation, attempts, or other mental health symptoms on 28 Feb 17, 20 Apr 17, and 28 Apr 17.

AFI 36-3208 Chapter 5, Section 5C, Paragraph 5.15 notes under Basis for Discharge for Fraudulent Entry, an airman may be discharged for fraudulent entry based on the procurement of a fraudulent enlistment or period of military service through any deliberate, material misrepresentation, omission, or concealment that, if known at the time of enlistment or entry into a period of military service, might have resulted in rejection. The fraud may occur at any time in the enlistment process; for example, when airmen are asked to fill out forms. Based on this definition, the applicant not disclosing her past suicidal ideation and suicidal plans constitutes fraudulent entry.

Per Department of Defense Instruction (DoDI) 6130.03, Volume 1, *Medical Standards for Military Service: Appointment, Enlistment, or Induction*, her suicidal thoughts and plans are disqualifying conditions which likely would have prevented her acceptance for military service. Section 6.1 notes, unless otherwise stipulated, the conditions listed in this section are those that do not meet the standard by virtue of current diagnosis, or for which the candidate has a verified past medical history. Section 6.28(m), *Learning, Psychiatric, and Behavioral Disorders*, notes a history of suicidality, includes, suicide attempt(s); suicidal gesture(s); suicidal ideation with a plan; or any suicidal ideation within the previous 12 months.

The Psychological Advisor concludes the applicant does not have any mental health conditions which would mitigate or excuse her fraudulent entry. The omission of her past suicidal ideation and planning is not mitigated by any mental health condition as it is not part of the sequela of symptoms associated with a mental health condition. Her behavior of omitting her past suicidal ideation and planning appears to be a willful and conscious decision, perpetrated over time which has no nexus with a mental health condition. After considering the entire record and contentions, there is insufficient evidence to suggest the applicant had any mental health condition which would

mitigate her misconduct of committing fraudulent entry, specifically, omitting her suicidal ideation and planning history while enlisting in the military.

LIBERAL CONSIDERATION: 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 check marked "other mental health" on her application.

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

The applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood.

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

The Psychological Advisor concludes the applicant does not have any mental health conditions which would mitigate or excuse her fraudulent entry. The omission of her past suicidal ideation and planning is not mitigated by any mental health condition, as it is not part of the sequela of symptoms associated with a mental health condition. Her behavior of omitting her past suicidal ideation and planning appears to be a willful and conscious decision, perpetrated over time which has no nexus with a mental health condition.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate her discharge, the applicant's condition also does not outweigh the original discharge.

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 4 Oct 24 for comment (Exhibit F) but has received no response.

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 not the victim of an error or injustice. 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. Based on the available evidence of record, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Furthermore, the Board finds she was discharged from the service for fraudulent enlistment due to having a disqualifying prior-service mental health condition, suicidal ideation

and planning, which she did not divulge during her enlistment process. Therefore, the Board finds no error with the narrative reason for separation, corresponding separation code, and the RE code annotated on her DD Form 214 as the applicant was correctly separated with an ELS without characterization of service for failing to disclose her previous suicidal ideation. 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 applicant served less than one month of active service. The SAF can determine honorable service is warranted if unusual circumstances of personal conduct and performance of military duty is present; however, the Board finds no evidence to suggest such. Therefore, the Board recommends against correcting the applicant's records.

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 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-2024-00689 in Executive Session on 5 Mar 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, w/atchs, dated 18 Feb 24.

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 16 Apr 24.

Exhibit D: Applicant's Response, atch, dated 29 May 24.

Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 26 Sep 24.

Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 4 Oct 24.

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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.

3/11/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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