



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01187

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

The applicant checked Post-Traumatic Stress Disorder (PTSD) and other mental health on his application and stated his DD For 214, *Certificate of Release or Discharge from Active Duty*, needs to correctly reflect his status.

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 19 Oct 89, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*, paragraph 5-46 for minor disciplinary infractions. The specific reasons for the action were:

- a. On 18 Feb 87, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for failing to keep his room in inspection order on 31 Jan 87. He received a forfeiture of \$153.00 in pay.
- b. The applicant received NJP, Article 15 for possessing and consuming alcohol in the student dormitory while underage on 22 Jun 88. He received a forfeiture of \$153.00 in pay and 7 days of correctional custody.
- c. On 27 Jul 88, AF Form 3070 indicates the applicant received NJP, Article 15 for disrespecting an officer on 20 Jul 88. He received a reduction in grade to airman, suspended unless sooner vacated, and forfeiture of \$50.00 in pay for two months.

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- d. On 18 Aug 88, a Letter of Reprimand (LOR) was issued for failing to obey an order and for going on leave without informing his supervisor.
- e. On 15 Sep 88, a Letter of Counseling (LOC) was issued for failing to report for duty on time.
- f. On 28 Nov 88, a LOC was issued for failing to report for duty on time.

On 2 Nov 89, the Chief of Military Justice found the discharge action legally sufficient.

On 6 Nov 89, the discharge authority directed the applicant be discharged for minor disciplinary infractions, with a general service characterization. Probation and rehabilitation were considered but not offered.

On 9 Nov 89, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Pattern of Misconduct-Minor Disciplinary Infractions" and he was credited with 3 years, 1 month, and 22 days of total active service.

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

POST-SERVICE INFORMATION

On 17 Apr 24, the Board sent the applicant a request for post-service information and advised the applicant he was required to provide a Federal Bureau of Investigation (FBI) Identity History Summary Check, which would indicate whether or not he 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 27 Jun 24 and provided an FBI report. According to the report, the applicant has had no arrests since discharge. The applicant also provided witness statements attesting to his medical problems, and his Department of Veterans Affairs disability rating for his PTSD with unspecified bipolar and related disorder (also claimed as acquired psychiatric condition) with an effective date of 30 Jun 23 rated at 50 percent.

The applicant's complete response is at Exhibit E.

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 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 17 Apr 24 and 17 Jun 24, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibits C and D).

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.

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 and finds sufficient evidence to support the applicant's request for a discharge upgrade from a mental health perspective. The applicant appears to have potential medical (thyroid) and mental health (PTSD; bipolar disorder) conditions that might be responsible for his misconduct. The Psychological Advisor will only be focusing on the mental health aspects of this case.

While the applicant was cleared for separation without notation of any mental health symptoms, there is evidence he may have been suffering from symptoms of PTSD as early as the spring of 1987, before the substantive degree of his misconduct occurred. The applicant reported during his initial Compensation and Pension (C&P) examination in 2023, he experienced a traumatic event, which qualifies as a stressor event (Criterion A). He was required to handle the bodily remains of a deceased pilot, which were charred and in pieces. The applicant reported he had symptoms soon after that including night terrors, sleep problems, increased temper, anxiety, and depression. It was around this time he began to drink to attempt to self-treat his mental health symptoms. The C&P examiner noted, while he was not formally diagnosed with PTSD, he did develop symptoms that are consistent with PTSD while he was in service. The examiner concluded it is as least as likely as not, likelihood is at least approximately balanced or nearly equal, if not higher, PTSD and bipolar disorder was incurred in or caused by the assignment to morgue during service. The applicant is 50 percent service-connected for PTSD.

The Psychological Advisor concludes the applicant likely met the Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria for PTSD while he was in the military. The substantive degree of his misconduct was committed after his traumatic experience. The Psychological Advisor concludes his mental health diagnosis of PTSD mitigates the substantive degree of his misconduct. The following behaviors are part of the sequelae of symptoms associated with PTSD; failure to report on time (avoidance, sleep disturbance); failure to comply with orders (not following up on mobility bag check and going on leave without notifying the team chief) (sleep disturbance, problems with concentration); disrespect (talking negatively about a superior officer after they walked away) (irritable behavior and angry outbursts typically expressed by verbal aggression), and possessing and drinking alcohol underage (self-medicating mental health symptoms). There is a nexus between these behaviors and his mental health diagnosis (PTSD). However, the failing inspection occurred before his traumatic experience and is therefore not mitigated by his mental health diagnosis. After considering the entire record and contentions, there

is sufficient evidence to suggest the applicant had a mental health condition that would mitigate the substantive degree of his misconduct.

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 and Other Mental Health on his application.

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

While the applicant was cleared for separation without notation of any mental health symptoms, there is evidence he may have been suffering from symptoms of PTSD as early as the spring of 1987, before the substantive degree of his misconduct occurred. The applicant reported during his initial C&P examination he experienced a traumatic event, which qualifies as a stressor event (Criterion A). He was required to handle the bodily remains of a deceased pilot, which were charred and in pieces. The applicant reported he had symptoms soon after that including night terrors, sleep problems, increased temper, anxiety, and depression. It was around this time he began to drink to attempt to self-treat his mental health symptoms. The C&P examiner noted while he was not formally diagnosed with PTSD, he did develop symptoms that are consistent with PTSD while he was in service.

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

The Psychological Advisor concludes the applicant likely met the DSM criteria for PTSD while he was in the military. The substantive degree of his misconduct was committed after his traumatic experience. The Psychological Advisor concludes his mental health diagnosis of PTSD mitigates the substantive degree of his misconduct. There is a nexus between most of his behavior/conduct and his mental health diagnosis (PTSD).

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does excuse and mitigate his discharge, the applicant's condition also outweighs the original discharge.

The complete advisory opinion is at Exhibit F.

The AFBCMR Medical Advisor finds sufficient medical evidence to support the applicant's implied contention medical conditions may have substantively mitigated his misconduct. The only pertinent medical issue in this case concerns the question of whether the applicant may have had documented clinical conditions during his military service that could have impacted his ability to meet Air Force disciplinary standards. As mentioned by the AFRBA Psychological Advisor, it is possible mental health factors may have mitigated the misconduct leading to his discharge. It is difficult to escape a similar conclusion regarding his medical diagnoses, and, in fact, this was clearly expressed by the applicant's supervisors commenting upon the degradation in his job performance in 1988 and 1989. The legal authority reviewing the applicant's discharge action also

noted the same concerns, stating the applicant's physical condition may have contributed to his disciplinary problems. Although no contemporaneous records were available for review, it is possible the applicant may have suffered some residual effects of Reye's syndrome, which can include lasting or permanent neurologic disturbances. Additionally, some symptoms of the applicant's thyroid cancer, such as fatigue, may have impacted his duty performance, particularly regarding tardiness, one of the disciplinary issues contributing to his discharge. The treatment of this condition, which included extensive neck surgery and radiotherapy, and its sequelae (i.e., hypothyroidism and hypoparathyroidism), may have also exacerbated some behavioral problems, though it occurred after the time frame of the applicant's misconduct leading to his discharge.

The complete advisory opinion is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 20 Mar 25 for comment (Exhibit H) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed but the untimeliness is waived because it is in the interest of justice to do so. 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on liberal consideration and concurs with the rationale and recommendations of the AFRBA Psychological Advisor and the AFBCMR Medical Advisor and finds a preponderance of the evidence substantiates the applicant's contentions. Specifically, the applicant's behaviors are part of the sequelae of symptoms associated with PTSD that explains his misconduct while in the service. While in the service, he experienced a traumatic event causing his mental health condition which excuses most of his behavior and misconduct, thus his condition outweighs his discharge. Additionally, some of the symptoms of his thyroid cancer, such as fatigue, may have contributed to his tardiness. Therefore, the Board finds the evidence sufficient to justify granting the applicant's request for a discharge upgrade and recommends correcting the applicant's records as indicated below.
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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 9 Nov 89, he was discharged with service characterized as honorable and a separation code and corresponding narrative reason for separation of JFF (Secretarial Authority).

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-2024-01187 in Executive Session on 16 Apr 25 and 21 Apr 25.

[Redacted], Panel Chair
[Redacted], Panel Member
[Redacted], Panel Member

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

- Exhibit A: Application, DD Form 149, dated 20 Mar 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibits C and D: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 17 Apr 24 and 17 Jun 24.
- Exhibit E: Applicant’s Response, w/atchs, dated 27 Jun 24.
- Exhibit F: Advisory Opinion, AFRBA Psychological Advisor, dated 20 Dec 24.
- Exhibit G: Advisory Opinion, AFBCMR Medical Advisor, dated 19 Mar 25.
- Exhibit H: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Mar 25.

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.

[Redacted Signature] 4/30/2025

Board Operations Manager, AFBCMR
Signed by: USAF