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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01389

Work-Product

COUNSEL: Work-Product

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HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

There was an injustice at the time of her discharge, and the character of service she received was not fitting of the situation. It has negatively affected her since discharge.

In support of her request for a discharge upgrade, the applicant provides a personal statement, multiple airman performance reports, military kudos, and a credit report.

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 12 Nov 85, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Regulation (AFR) 39-10, *Administrative Separation of Airmen*, paragraph 5-47b, for conduct prejudicial to good order and discipline. The specific reasons for the action were:

- a. On 17 Apr 85, a Memorandum for Record (MFR) was written for financial irresponsibility.
- b. On 28 Jul 85, an MFR was written for having a delinquent club bill. The balance due was \$99.00 and she was 45 days delinquent for \$23.00.
- c. On 26 Aug 85, a Letter of Reprimand (LOR) was issued for failing to control classified material on 23 Aug 85.

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- d. On 16 Oct 85, a Record of Individual Counseling, (RIC) was issued for financial irresponsibility.
- e. On 28 Oct 85, a dishonored check notification was issued for two checks, totaling \$200.00.
- f. On 28 and 29 Oct 85, MFRs were written for returned checks at the base exchange (BX).
- g. On 30 Oct 85, an MFR was written for a dishonored check written to the noncommissioned officer (NCO) club.
- h. On 31 Oct 85, three MFRs were written for financial irresponsibility and the use of marijuana.

On 14 Nov 85, the Staff Judge Advocate found the discharge action legally sufficient.

On 19 Nov 85, the discharge authority directed the applicant be discharged for a pattern of misconduct, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 20 Nov 85, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct-Pattern of Conduct Prejudicial to Good Order and Discipline" and she was credited with one year, seven months, and four days of total active service.

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

POST-SERVICE INFORMATION

On 26 Aug 24, the Board staff sent the applicant a standard request for post-service information. This letter informed the applicant that a Federal Bureau of Investigation (FBI) background check would assist the Board in evaluating her case. Although the applicant did reply to the request for post-service information (Exhibit C), her response did not include an FBI background check or other criminal history data. The applicant's response included character references emphasizing her leadership abilities, comradery, and the commitment to serving others.

The 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 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 21 Jan 25, the Board staff provided the applicant with a copy of the liberal consideration guidance (Exhibit E).

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 finds insufficient evidence to support the applicant's request for an upgrade of her discharge based on her mental health condition. A review of the available records finds no evidence or records the applicant had any mental health conditions such as anxiety, depression or post-traumatic stress disorder (PTSD) during service. She received a mental health evaluation following her disclosure of marijuana use and was determined to be a marijuana experimenter. Marijuana or substance use is an unsuitable condition for military service. There is no evidence she used marijuana to cope with having a mental health condition such as anxiety, depression or PTSD. She did not provide any formal statements in response to her disciplinary or discharge action at the time of service but claimed to the operations officer and her first sergeant she used marijuana once after her husband forced her. She admitted her marijuana use to the operations officer after she had initially denied using marijuana, and after being informed her first sergeant had briefed the operations officer, she had disclosed her drug use. She did not state in her petition to the AFBCMR her husband forced her to use marijuana like she did during service, but alleged her husband would sit on top of her and blow drugs into her face frequently. Both of her statements made at the time of service and in her petition (regardless of the discrepancy in reporting) do not demonstrate her mental health condition caused her to use marijuana.

There is no evidence she had a mental health condition, impairing her judgment at the time she used marijuana, especially since she claimed she was forced to use drugs. She was also discharged for her financially irresponsible behavior and there is no evidence her financial problems were caused by having a mental health condition. She claimed her ex-husband found her checkbook while she was on temporary duty (TDY), and he caused her to be in financial debt. However, the MFR dated 17 Apr 85, written by the noncommissioned officer in charge (NCOIC) of administration, reported she received a loan of \$2,000.00 from Air Force Aid to pay for her car repairs. She returned to the Air Force Aid the same month for another loan to offset the cost of moving. She was denied the loan due to an investigation into the first loan revealing she only used \$1,000.00 for her car repair and when requested she return the other \$1,000.00 or provide receipts to show she used it on her car repair, she was unable to produce a receipt. This report indicated she contributed to her own financial debt and irresponsibility, and the cause of her financial problems were not wholly caused by her ex-husband using her checkbook as she claimed. There is no evidence she had a mental health condition, impairing her judgment, causing her financial debt or her inability to pay for her debts. There is also no evidence or records she was abused by her husband as contended, although this is a possibility. There is no evidence she developed a mental health condition from the abuse she endured from her husband, causing her to use drugs or

her financial problems. Based on an exhaustive review of the available records, there is no error or injustice identified with her discharge from a mental health perspective. There is no evidence her mental health condition had a direct impact or was a contributing factor to her marijuana use and financial problems.

Liberal consideration is applied to the applicant's request for an upgrade of her discharge. It is reminded, liberal consideration does not mandate an upgrade or a change to her records per policy guidance. The following are answers to the four questions from the Kurta Memorandum from the available records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The applicant contended her husband was abusive and would frequently sit on her and blow drugs into her face. She claimed he took her checkbook while she was on TDY, causing her to have financial debt. She did not identify having any mental health conditions, how her mental health condition caused her misconduct, and how her mental health condition may excuse or mitigate her discharge.

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

There is no evidence or records the applicant had any mental health conditions such as anxiety, depression or PTSD. during service. She received a mental health evaluation following her disclosure of marijuana use and she was determined to be a marijuana experimenter. She was referred to the local rehabilitation program and no records are available to confirm whether she completed or attended the program. There is no evidence or records she was abused by her husband, or she developed a mental health condition from being abused by her husband during service.

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

There is no evidence or records the applicant had any mental health condition which had a direct impact or was a contributing factor to her drug use and financial problems, resulting in her subsequent discharge for these reasons. Drug use or marijuana experimentation is an unsuitable condition for military service. There is no evidence she used marijuana to cope with her mental health condition or her mental health condition caused her to use marijuana. She claimed to her leadership at the time of service her husband had forced her to use marijuana, so this explanation does not demonstrate her mental health condition caused her to use drugs. She claimed her husband took her checkbook when she was on TDY, and he caused her financial debt. Her military records revealed she contributed to her financial debt by taking out a loan for her car repairs, possibly using a portion of the loan for things other than for her car repairs and not paying her debt. There is no evidence her mental health condition including being abused by her husband caused her financially irresponsible behaviors and drug use. For these reasons, her mental health condition does not excuse or mitigate her discharge.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate her discharge, her mental health condition also does not outweigh her 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 24 Feb 25 for comment (Exhibit G) 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 concurs with the rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Liberal consideration was applied to the applicant's request due to the contention of a mental health condition; however, there is no evidence of a mental health condition during her military service or at the time of discharge which would excuse or mitigate the applicant's misconduct of drug use and financial problems. After receiving a mental health evaluation, she was determined to be a marijuana experimenter. Furthermore, there are no records or evidence the applicant was abused by her husband or developed a mental health condition due to abuse by her husband. In the interest of justice, the Board considered upgrading the discharge based on clemency and fundamental fairness; however, the Board finds insufficient evidence to warrant relief on this basis. Should the applicant provide documentation pertaining to her post-service accomplishments and activities, the Board would be willing to reconsider her request based on clemency and fundamental fairness. Therefore, the Board recommends against correcting the applicant's records.

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-2024-01389 in Executive Session on 6 Jun 25:

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Panel Chair

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Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 16 Apr 24.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Letter, SAF/MRBC, (Post-Service Request and Fundamental Fairness/Clemency Guidance), dated 26 Aug 24.

Exhibit D: Applicant's Response, w/atchs, dated 24 Sep 24.

Exhibit E: Letter, SAF/MRBC (Liberal Consideration Guidance), 21 Jan 25

Exhibit F: Advisory Opinion, AFRBA Psychological Advisor, dated 24 Jan 25.

Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 24 Feb 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.

6/25/2025

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Board Operations Manager, AFBCMR

Signed by: USAF

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