Work-Product

UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2024-01623

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be given a medical separation.

APPLICANT'S CONTENTIONS

He was told he had to go through a Medical Evaluation Board (MEB) while serving in the Air Force Reserve (AFR), but he did not before he was separated. He was physically and mentally unfit for duty. He was trying to be processed through the MEB before he was separated but did not understand the process and no one in his unit cared to help him. Once he figured out the process, he only had five months left and did not want to extend to go through the process. He was in a no pay status for the entire 2023 year. He was granted 100 percent disability rating from the Department of Veterans Affairs (DVA) and suffers from Post-Traumatic Stress Disorder (PTSD), anxiety, depressive disorder, sleep apnea, left knee instability, and more. He was unable to carry a weapon or perform physical training due to his disabilities.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former AFR staff sergeant (E-5).

On 10 Apr 19, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged after serving 5 months and 26 days of active duty. He was discharged, with a narrative reason for separation of "Completion of Required Active Service."

On 12 Mar 22, DD Form 214 reflects the applicant was honorably discharged after serving 8 months and 16 days of active duty. He was discharged, with a narrative reason for separation of "Completion of Required Active Service." It is noted the applicant served in support of Operation FREEDOM SENTINEL from 27 Jun 21 thru 12 Mar 22.

On 23 Dec 22, DD Form 214 reflects the applicant was honorably discharged after serving 4 months and 26 days of active duty. He was discharged, with a narrative reason for separation of "Completion of Required Active Service."

Dated 12 Mar 24, Reserve Order Work-Prod... indicates the applicant was relieved from assignment from Security Forces and assigned to ARPC, effective 10 Mar 24.

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

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for medical disability retirement discharge from a psychological perspective. While the applicant was diagnosed with PTSD in 2022 and is service-connected for PTSD, there is insufficient evidence to suggest he was unfit for duty from a psychological perspective. Being diagnosed with a mental health condition and receiving mental health treatment does not automatically render a condition as unfitting. More information is required to determine unfitness such as being placed on a permanent duty limiting condition (DLC) profile for a mental health condition, being deemed not worldwide qualified (WWQ) due to a mental health condition, and impact or interference of the condition on the service member's ability to reasonably perform their military duties in accordance with their office, grade, rank, or rating. These designations were absent from his records. The applicant's most recent mental health record, dated 17 Oct 22, documents while he was diagnosed with PTSD, he did not have a DLC or profile from a psychiatric perspective. He was determined able to deploy. Prior mental health treatment records (2021 and 2022) routinely discharged him without any duty limitations, determined he was WWQ, he was fit for continued service, and noted the applicant himself denied his mental health symptoms affected his ability to perform his duties.

Additional evidence for his fitness for duty can be determined from his military record. The applicant earned exemplary overall ratings (4 and 5s out of a possible 5) on all his performance evaluations. He was promoted in 2022 and earned an achievement medal. It should be noted, even after he was diagnosed with PTSD on 13 Jul 22, he earned a performance rating of 5 out of a possible 5 with an end date of 31 Jan 23, demonstrating he was fit for duty from a psychological perspective even after a mental health diagnosis. The Psychological Advisor concludes there is insufficient evidence to support the applicant's mental health condition had an impact on his ability to perform the duties of his office, grade, rank, and rating from a psychological perspective. It should be noted the military's Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, 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 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.

The complete advisory opinion is at Exhibit C.

The AFBCMR Medical Advisor recommends denying the application finding insufficient evidence to support the applicant's request to change any component in his discharge documents. Despite the recorded medical history inconsistencies, the litany of reported physical conditions did not (single or combined) render the applicant permanently unfit for continued military service. His choice to separate as well as the discharge process occurred in accordance with regulatory guidance. It appeared the applicant was not a victim of an error or injustice in his discharge processing. The burden of proof is placed on the applicant to submit evidence to support his request. The evidence he did submit were assessed to not support his request for any change in his separation documents.

The applicant petitions the Board requesting a medical discharge claiming he has been unfit for duty since Mar 22 with both mental health and physical health conditions. Despite citing a variety of health conditions, the medical documents submitted revealed the applicant was always returned to duty and continued to note as being WWQ. The sole note of any profile being applied to the applicant's health condition was for back pain in Apr 22 with an apparent resolution of such pain by the end of May 22 and the beginning of Jun 22 whereby after physical therapy treatment, no physical or duty restrictions were given. There were inconsistencies in the records regarding the applicant's knee(s) condition. First, the line of duty determination (LODD) specifically denoted two separate injuries (basketball fall and a fall through stairs) that caused his left knee pain for which he received treatment nearly two months after the injurious events. However, the written encounter for the applicant's initial medical treatment of 7 Oct 21 denoted the previous stated injury was to his right knee and the pain simply started insidiously. Furthermore, the encounter note documented historically, no injury the applicant recalled. Nonetheless, the applicant was returned to duty. While still deployed in Dec 21, the applicant complained of low back and left knee pain and denied any injury associated with his physical complaint. His physical examination (PE) was completely normal and again, he was returned to duty and remained WWQ. It was not until later that same month, Dec 21, when on a Post Deployment Health Assessment (PDHA), the applicant listed a variety of conditions whereby he cited as being bothered a lot. They included back pain, arm pain, leg pain, shoulder pain, and flat feet. Despite these self-reported conditions as bothering the applicant, the Medical Advisor found no evidence any of these conditions rose to a level whereby he was on a long-term profile and permanently unable to fulfill his military duties. Additionally, the applicant listed knee pain on the Dec 21 PDHA. Eventually, surgery was performed on the left knee in Aug 22 (inconsistent dates) as recorded and documented on a DVA Disability Benefits Questionnaire (DBQ) for knee and lower leg conditions. Additional medical record inconsistencies were noted in describing the presence of left knee instability from prior civilian clinical encounters versus the later obtained DVA Compensation and Pension (C&P) evaluation whereby the applicant reported "No" for having any history of left knee instability.

Despite the applicant receiving DVA disability for various physical conditions, the Medical Advisor must stress a service-connection decision by the DVA does not equate to what the DoD denotes as an unfitting condition which may be ratable within the DES. The determination of unfitness by the military is when a physical or mental health condition interferes with the member's ability to reasonably perform their military duties in accordance with their rank, grade, office, or rating.

The various inconsistencies throughout the record review brings forth questionable concerns in the probative value of reported events. However, there is no denial, surgery to his left knee occurred in the summer of 2022 with recovery from the same while on convalescent leave. Additionally, his knee condition was not the cause for his career termination, but rather the applicant chose to be released from service after completing his required active duty. Although the applicant was on a profile (unsure for the reason or duration) he continued to perform his service duties and therefore, the unfitting criteria within the DoD was not reached and thus referral to a MEB was not applicable.

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 21 Jan 25 for comment (Exhibit E) 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 the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. It is noted the applicant claims he should have been processed through the DES for his various medical and mental health conditions; however, the Board does not find any of his medical or mental health conditions had an impact on his ability to perform his military duties. He received exemplary performance ratings, was promoted, and was awarded an achievement medal. The preponderance of medical evidence indicates the applicant remained WWQ and was correctly returned to duty following any medical evaluation or profile. The decision to be processed through the DES is not up to the applicant, and the Board finds he did not meet the criteria within the DoD for referral to a MEB. The mere existence of a medical diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. Although his conditions may have impacted his ability to perform his fitness test and he may have been on a profile because of this, overall, his military duties were not significantly degraded due to his medical or mental health conditions. A service member shall be considered unfit when the evidence establishes the member, due to physical or mental health disability, is

unable to reasonably perform the duties of his or her office, grade, rank, or rating. Furthermore, a rating by the DVA, does not warrant a change in the member's separation. The military's DES established to maintain a fit and vital fighting force, can by law, under Title 10, 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 or near the time of separation. However, the DVA can offer compensation for any medical condition which has a nexus to 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. 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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-01623 in Executive Session on 19 Feb 25 and 22 Feb 25:

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 26 Apr 24.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 17 Oct 24.
Exhibit D: Advisory Opinion, AFBCMR Medical Advisor, dated 14 Jan 25.
Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Jan 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.

2/25/2025

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF