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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02020

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. His delayed enlistment time be credited as active service.

APPLICANT'S CONTENTIONS

During basic military training (BMT), a recruit collapsed and died in front of him. He was traumatized and convinced this could happen to him. Counselors were sent to talk to him about his concerns but he was unable to get this incident out of his mind. This caused anxiety, which led him to self-medicate using cannabis. He subsequently tested positive during a urinalysis, which led to his discharge.

His DD Form 215, *Correction to DD Form 214, Certificate of Release or Discharge from Active Duty*, reflects his corrected delayed enlistment time.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman basic (E-1).

On 31 Dec 85, 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 5-49c for misconduct – drug abuse. The specific reason for the action was that on 16 Dec 85 the applicant received nonjudicial punishment (NJP), Article 15, for the wrongful use of marijuana on or about 17 Oct 85. The applicant received a reduction to the grade of airman basic (E-1), forfeiture of \$200.00 pay per month for two months, with forfeiture in excess of \$100.00 pay per month for two months suspended, and 45 days extra duty.

On 13 Jan 86, the Staff Judge Advocate found the discharge action legally sufficient.

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On 15 Jan 86, the discharge authority directed the applicant be discharged for misconduct – drug abuse, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 16 Jan 86, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Misconduct – Drug Abuse” and he was credited with 1 year, 5 months, and 26 days of total active service.

On 22 Jul 86, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge. The applicant contended the discharge was unfair because it was based on a single incident and the surrounding situation was not considered. His first sergeant forced him to sign a confession prior to having legal evidence. He was not a drug user.

On 11 Jun 87, the AFDRB denied the applicant’s request and 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 14 Jul 87, the applicant was provided with a DD Form 215, which corrected block 12c, *Total Prior Active Service*, to reflect 1 year, 5 months, and 27 days; and block 12e, *Total Prior Inactive Service*, to 7 months and 29 days.

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

POST-SERVICE INFORMATION

On 29 Sep 25, the Board staff 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.

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 5 Mar 25, 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.

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 his discharge based on his mental health condition. While the applicant contends he has PTSD and other mental health issues, there is insufficient evidence to support this claim. The applicant has no available documentation or diagnosis to support this contention. Additionally, at the time of his misconduct, the applicant cited numerous reasons for his drug use but he did not report issues related to having PTSD or having a traumatic experience while in the military. Therefore, the Psychological Advisor concludes the applicant did not have any mental health conditions which would mitigate or excuse his drug use.

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 Memo 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 PTSD and other mental health on his application. He also contends he had a traumatic experience which led to his drug use.

2. Did the condition exist or experience occur during military service?
There is no documentation to support the applicant's contention of having a mental health condition.

3. Does the condition or experience excuse or mitigate the discharge?
While the applicant contends he has PTSD and other mental health issues, there is insufficient evidence to support this claim. The applicant has no available documentation or diagnosis to support this contention. Additionally, at the time of his misconduct, the applicant cited numerous reasons for his drug use but he did not report issues related to having PTSD or having a traumatic experience while in the military. Therefore, the Psychological Advisor concludes the applicant did not have any mental health conditions which would mitigate or excuse his drug use.

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 12 Sep 25 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 concurs with the rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board applied liberal consideration to the applicant's request due to his contention of a mental health condition. However, the Board finds the applicant's statement not compelling or persuasive to grant relief. There is no evidence the applicant had any diagnosis, untreated mental health conditions, or symptoms at the time of his misconduct, at discharge, or post-service. Furthermore, at the time of discharge, the applicant provided numerous reasons for his use of cannabis; however, PTSD or a traumatic experience was not mentioned. The Board finds his contended mental health condition does not excuse or mitigate his discharge. Therefore, the applicant's condition or experience does not outweigh his discharge. The applicant has provided no evidence which would lead the Board to believe his service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness; however, the applicant did not provide any post-service information or a criminal history report to show he has made a successful post-service transition. The Board would be willing to reconsider the applicant's request should he provide post-service evidence such as criminal history background check, a personal statement, character statements, and/or testimonials from community members describing his accomplishments and contributions to his community. With respect to the applicant's request that he be awarded additional service credit for his time served in the delayed enlistment program, as noted on his DD Form 215, this time is considered inactive service and is not creditable towards active duty service. Accordingly, the Board finds the applicant's DD Form 214 and DD Form 215 are correct as reflected. 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-2024-02020 in Executive Session on 12 Nov 25:

Work-Product Panel Chair
Work-Product 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 4 Jun 25.

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 5 Mar 25.

Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 12 May 25.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Sep 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.

12/15/2025

X

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Board Operations Manager, AFBCMR

Signed by: USAF