



Work-Product

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2024-02038

COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT’S REQUEST

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

APPLICANT’S CONTENTIONS

His post-traumatic stress disorder (PTSD) and other mental health issues are related to his request because he developed persistent depressive disorder for which he is service connected by the Department of Veterans Affairs (DVA). Despite grappling with depression, he has consistently demonstrated himself as an exemplary citizen as evident by his 28-year career in law enforcement. His request under liberal consideration should be granted due to his mental health conditions which impacted his behavior. He continues to struggle with sleep disturbances, anxiety, and depression. During his service, he worked in the Neonatal Intensive Care Unit (NICU), which proved emotionally challenging for him, as he had to witness the deaths of infants and children on numerous occasions. Due to these traumatic events, he began to experience difficulties at work and was disciplined for minor misconduct stemming from the overwhelming stress he endured during his military service. He began to self-medicate, using alcohol to alleviate his stress. None of his offenses were violent; conversely, his misconduct was not driven by ill will or harmful intentions nor were they premeditated. Hence his traumatic experiences in the military mitigate his misconduct and outweigh his discharge. The combination of witnessing traumatic events, physical injuries, workplace stress, and personal challenges, including his arrest for driving while intoxicated (DWI) and a complicated romantic relationship, all contributed to the deterioration of his mental health. And these stressors played a significant role in the development of his mental conditions and his subsequent service-connected mental health disability rating making him eligible for a discharge upgrade under the Kurta memorandum criteria. His should also be considered under the Wilkie memorandum; his offenses were non-violent in nature, he shows remorse for his actions, it has been 37 years since his discharge, and he has been an exemplary citizen serving in law enforcement for 28 years.

In support of his request for a discharge upgrade, the applicant provides a PTSD disability questionnaire and his disability ratings from the DVA, a personal statement, and records indicating

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he retired from the [Work-Product] Police Department with 28 years of service in law enforcement with letters of congratulations on his retirement from the [Work-Product] State Police District [Work-Product] Commander, and [Work-Product] Superintendent of Police in Nov 18.

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 30 Oct 86, 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 12 Jul 85, a Letter of Counseling (LOC) was issued for being late to work.
- b. On 15 Aug 85, a Letter of Reprimand (LOR) was issued for failing to maintain a professional relationship with a patient's parent.
- c. On 5 Sep 85, a LOC was issued for being late to work.
- d. On 27 Nov 85, a LOC was issued for dereliction of duty.
- e. On 8 May 86, a LOR was issued for wrongfully distributing Cama, a prescription medication.
- f. On 11 Jul 86, a LOC was issued for leaving in the middle of a report and being late to work.
- g. On 3 Sep 86, a LOR was issued for a DWI and failing to go to appointed place duty.

On 12 Nov 86, the applicant responded to the discharge recommendation stating the negative aspects of his career have come under scrutiny without mentioning the positive aspects. On more than one occasion, he has helped to save a life but never sought notoriety. He was under stress which does not excuse his conduct but does explain a majority of his infractions. He acknowledges his past mistakes which he has learned from and asked to be retained.

On 21 Nov 86, the Acting Staff Judge Advocate found the discharge action legally sufficient.

On 2 Dec 86, the discharge authority directed the applicant be discharged with a general service characterization. Probation and rehabilitation were considered but not offered.

On 10 Dec 86, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Misconduct-Pattern of Minor Disciplinary Infractions” and he was credited with 2 years, 9 months, and 28 days of total active service.

On 30 Apr 25, the AFBCMR sent a request to the applicant for release of his post-service DVA medical records. On 30 May 25 the applicant responded through counsel refusing to release additional medical evidence that was not already included with his application stating the board had no right to request this information which would violate his HIPAA rights (Exhibit D).

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

POST-SERVICE INFORMATION

On 5 Feb 25, 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). Although the applicant did not reply to this request for additional post-service evidence, he did provide multiple documents showing his employment in law enforcement. In his personal statement he highlights his 28-year successful law enforcement career. He goes on to express his profound and deep remorse for his misconduct and speaks to his struggles with anxiety, sleep impairment, and his difficulties in establishing effective relationships. He further goes on to explain the traumatic events he witnessed while in the NICU which caused intrusive thoughts and distressing memories and to cope with this, he turned to alcohol as a means of self-medication. Unfortunately, this reliance on alcohol eventually led to a regrettable incident of driving under the influence, a decision he deeply regretted. He also provides details from his perspective of the other behaviors which led to his discharge.

The applicant’s complete response is at Exhibit A.

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 Feb 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 completed a review of all available records and finds insufficient evidence to support the applicant's request based on a mental health condition. There is no evidence the applicant had a mental health condition that impaired his judgment at the time of any of his misconduct. The Psychological Advisor concludes there is no error or injustice identified with the applicant's discharge from service for "Misconduct-Pattern of Minor Disciplinary Infractions" and the narrative reason for separation is appropriate.

There is support in the case file suggesting the applicant was exposed repeatedly to potentially traumatic events by the nature of his work in the neonatal unit while serving in the military. His appraisals validate this exposure with the description of his duties, and his response to that exposure was documented by his second endorser, who stated on 27 Aug 85, instead of viewing the neonatal intensive care as an arena of opportunity and challenge, he saw it as threatening and some of his coping tactics were irresponsible. It was noted in an earlier appraisal, dated 13 Feb 85, the applicant had to manually ventilate and stimulate an infant who had become cyanotic and bradycardic, and his efforts also contributed to the unit's incredibly low mortality rate in a record number of high-risk newborns. These specific incidents were in addition to the applicant's report of other events such as the profound impact that transporting the remains of a newborn to the hospital morgue and witnessing a 14-year-old girl having a violent reaction to being administered the wrong IV medications that in turn rendered her with irreparable brain damage. Thus, it seems plausible the repeated exposure to critically ill infants and children wore on the applicant's well-being and was a significant reason for his move from the neonatal clinic to the pediatric clinic. There is clear evidence that while performing his primary duties as a Medical Service Specialist the applicant met one criterion for PTSD, which is exposure to actual or threatened death or serious injury. However, the other necessary diagnostic criteria for PTSD regarding re-experiencing/intrusive thoughts or memories, avoidance, negative alterations in cognitions and mood associated with the trauma, and heightened arousal are not fully supported. There is insufficient support in the available records he experienced any of the other required symptoms to be diagnosed with PTSD during service or at the time of any of his misconduct. Additionally, the DVA determined in 2021 he did not meet the diagnostic criteria for PTSD based on his traumatic military duties. While it is understandable there may be some stigma associated with seeking mental health treatment and that trauma symptoms can have a delayed onset, the available information does not support, a mental health condition of PTSD existed during military service.

According to the Apr 21 DVA benefits assessment, provided by the applicant, his response to dealing with death, particularly with infant mortalities, left him with depressive symptoms which have lasted and become pervasive. Nonetheless, the misconduct that was mentioned in the case file cannot be explained by depression. The applicant provided rebuttal statements to the administrative disciplinary actions, but he did not mention having any depression-related symptoms that caused his misconduct. For example, he had various explanations: being late to work was attributed to staying up late to clean for room inspection and poor transition from dayshift to nights, he left early to attend to patient needs, a medical error was made in haste, he exercised poor judgment in sharing his medication with another individual and in failing to

maintain a professional relationship with a patient's mother. Also, in some of his rebuttal statements, there is an undertone that shifts blame to others. The following examples are provided: (1) wrongful distribution of a prescription medication: "I still feel that I have been caught up in a great 'witch hunt,' an innocent bystander in a legal crossfire. I acknowledge my mistake, my stupidity in giving an airman the aspirin, yet one question remains in my mind: what legal actions are being taken against her, an individual who for all intents and purpose did or does take controlled substances without fear of repercussion or reprisal while at the same time furthering her military career." (2) inattention to report: "I left report due to lack of response of any kind by the previous shift to said call-bells telephones, and patient needs, my leaving report will not occur again." (3) Failure to maintain a professional relationship: "Although the woman was married, I knew as a fact that she had been dating a fellow airman who was not her spouse. Both she and the fellow airman were Caucasian. I am African American. The woman reported me, and I was disciplined, I did not reveal that she had been dating the fellow airman, hence he was not reprimanded." There are inconsistencies noted in the applicant's case file. First, there is a police report indicating the applicant registered a 0.11 percent blood alcohol content from the DWI incident on 1 Sep 86 and that he displayed physiological signs and behaviors consistent with intoxication. However, in the applicant's rebuttal to the LOR for this incident, he acknowledged drinking two mixed drinks and one can of beer in a one-hour time period but emphatically refused responsibility for this misconduct stating he denied all allegations of operating a motor vehicle while intoxicated, to have done so would demonstrate very little concern to the safety of others as well as blatant contempt for his own life. This particular drinking-related misconduct cannot be explained as a means to self-medicate while grappling with a myriad of emotional and psychological challenges stemming from his experiences in the military, particularly in the high-stress environment of a hospital. Bearing witness to suffering and loss, coupled with personal hardships and setbacks, exacted a toll on his mental well-being and in order to cope with these overwhelming emotions and intrusive memories, resorted to alcohol as a form of self-medication. In essence, his use of alcohol for self-medication reflected his untreated mental health problems, which worsened through his military service and rather than seeking proper support and assistance, he resorted to alcohol, leading to the DWI incident as contended by his legal counsel. Contrary to this statement by his legal counsel, the applicant provided a rebuttal to the LOR at the time of the incident denying he was driving while intoxicated during service. The applicant would at first have to admit wrongdoing to in turn explain the wrongdoing as self-medicating at the time of the misconduct. It is notable the applicant admitted to driving under the influence in the letter included with his petition, which differs from the rebuttal provided at the time of the misconduct when he denied all allegations of operating a motor vehicle while intoxicated. Nonetheless, the applicant's legal counsel contends the misconduct was not premeditated, there was no malicious intent and that none of his offenses were violent. It is the opinion of the Psychological Advisor that driving while intoxicated at a high rate of speed was an egregious and serious threat to both the applicant and public safety and thus, the contention is not supported. There is inadequate evidence he was self-medicating with alcohol that led to his DWI as claimed. The second inconsistency is the applicant's report regarding the onset and origin of depression while in service. The applicant checked depression or excessive worry on his separation physical conducted on 4 Nov 86, without any explanation. However, the examining provider made a note stating the cause for his depression in 1986 was secondary to personal reasons. This checked box is considered self-reported symptoms that were not verified

by a provider qualified to diagnose mental health conditions. There was no documentation he was referred to specialty mental health care for further evaluation once depression was disclosed during the separation physical examination. Nonetheless, it is noteworthy his depression was not specifically attributed to his work stressors, job performance or misconduct but rather to personal reasons. By Nov 86, the applicant received numerous adverse administrative actions.

The applicant went on to have a successful 28-year career as a law enforcement officer after being discharged. There was no evidence provided indicating his military experiences resulted in impairment while performing duties in law enforcement. The applicant was discharged in 1986 and retired from law enforcement in 2018. He presented to the DVA for a PTSD evaluation in 2021, which was 35 years later, and did not receive a PTSD diagnosis during this evaluation. However, it is opined by the Psychological Advisor that numerous life experiences have occurred since the applicant was discharged such that a clear nexus between his military service and any trauma-like or depression symptomology cannot be established. His clinical presentation based on the available records vastly differs from his clinical presentation observed and assessed by the DVA occurring decades post-service. It is important to note the differences in the DVA disability claims and military record corrections board processes. The DVA establishes that a condition is connected to military service and not necessarily the cause of discharge from the military. To reiterate, the applicant was discharged from service for failing to report to duty on time on numerous occasions, receiving a DWI, dereliction of his duties, and failing to maintain a professional relationship with a patient's mother. A review of the available records finds no evidence that his mental health condition, including PTSD or depression, had a direct impact or was a contributing factor in his decision to engage in the acts of misconduct leading to his discharge from service. It is acknowledged his personal testimony is considered evidence per liberal consideration, but the evidence in his military records was more compelling based on the aforementioned reasons as discussed.

Liberal consideration is applied to the applicant's petition due to his contention of a mental health condition. It is reminded liberal consideration does not mandate an upgrade or change to the record per policy guidance. The following are responses based on the available records to the four questions from the Kurta Memorandum:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant and his legal counsel contend he has PTSD and other mental health conditions. He received a 70 percent service-connected disability rating from the DVA for persistent depressive disorder (dysthymia), with anxious distress, moderate. The applicant also contends alcohol was used to self-medicate symptoms of untreated mental health problems as he grappled with a multitude of emotional and psychological difficulties arising from his military service; particularly a stressful hospital work environment, overwhelming emotions, and intrusive memories.

2. Did the condition exist or experience occur during military service?
There is evidence from the applicant's military records, the applicant was repeatedly exposed to a traumatic event of actual or threatened death and serious injury of critically ill infants and children while performing duties as a Medical Services Specialist, but there is minimal evidence he had

PTSD or trauma-related symptoms during service. Per the applicant's request, his service treatment records were not reviewed. However, the personnel record included a copy of his separation physical examination where he checked depression or worry on the form and the provider made a note stating he had depression due to personal reasons that were not further clarified. Depression was self-reported by the applicant. He denied having any sleep issues, nervousness or anxiety, and memory problems during the same examination. There was no documentation provided or available in the military personnel record indicating the applicant had a diagnosed mental health condition or experience during his military service. He was diagnosed with depression over 30 years after his discharge from service by the DVA.

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

While repeated exposure to critically ill infants and children is a distressing experience, it did not cause him to develop a mental health condition that would actually excuse the misconduct at the time of the offense or mitigate the reason for discharge. The applicant acknowledged he had poor judgment and made mistakes at the time of some of his various misconduct. However, his poor judgment was not the result of having a mental health condition. The most egregious misconduct was a DWI at a high rate of speed. This behavior is a serious personal and public safety concern that cannot be explained by an underlying mental health condition. After registering above the legal limit and receiving a LOR, the applicant emphatically denied the DWI offense.

4. Does the condition or experience outweigh the discharge?

The condition or experience does not outweigh the discharge. The severity of this misconduct is not outweighed by his mental health condition.

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 3 Sep 25 for comment (Exhibit F) and on 3 Oct 25 the applicant responded. In his response, he contends, through counsel, his persistent depressive disorder (PDD) and associated symptoms are directly related to the behaviors which led to his discharge. Both his insomnia and hypersomnia which are symptoms of PDD explain his lack of sleep, which impaired his decision-making ability.

The advisory opinion falsely states he denied access to his service treatment records. These records were never requested by the Board. He denied access to his entire DVA medical records without specific parameters identified. He has since submitted his medical records for review.

A diagnosis is not required to exist explicitly in the record and the Kurta memorandum encourages liberal consideration where mental health conditions exist. In his statement, he attests the combination of cultural differences and stigma led him to downplay his mental health symptoms at the time of his service. He can establish he met the criteria for PDD during military service as he attests to depressed mood as a result of the trauma he witnessed in the NICU and pediatric units. He can also establish low energy, hypersomnia, low self-esteem, poor concentration, difficulty

making decisions, and feelings of hopelessness. PDD only requires two of these symptoms to be present and five out of six are explicitly detailed in his submissions to the Board.

The applicant's complete response is at Exhibit G.

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 other available administrative remedies before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice and grants the applicant's request for a discharge upgrade based on fundamental fairness and liberal consideration. While the Board finds no error in the original discharge process, the Board recommends relief based on his stellar career in law enforcement and the fact the applicant shows remorse for his actions. Additionally, the Board finds his mental health due to the trauma he suffered in the military did have some influence on his behaviors based on the medical documentation he submitted with his rebuttal. Therefore, given the evidence presented, the Board finds the applicant's submission sufficient to grant the requested relief and recommends correcting the applicant's record.
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 10 Dec 86, 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-2024-02038 in Executive Session on 18 Sep 25 and 3 Mar 26:

Work-Product Panel Chair

Work-Product Panel Member

Work-Product Panel Member

AFBCMR Docket Number BC-2024-02038

CUI

CUI//SP-MIL/SP-PRVCY

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 15 Apr 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 5 Feb 25.
- Exhibit D: Applicant's Response to Medical Release, w/atch, dated 30 May 25.
- Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 26 Aug 25.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Sep 25.
- Exhibit G: Applicant's Response, w/atchs, dated 3 Oct 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.

3/17/2026

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2024-02038

Work-Product