



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02071

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Her "Uncharacterized" Entry-Level Separation (ELS) be changed to honorable or general (under honorable conditions).
2. Her narrative reason for separation of "Fraudulent Entry into Military Service" be removed.
3. She be credited for the time spent on active duty.

APPLICANT'S CONTENTIONS

She was young and extremely immature at the time of her enlistment. Due to the sexual trauma she experienced as a child, she feared for her safety and lost sleep during training. She told the Air Force she had a diagnosis which was not true just so she could get discharged. Because of this, she has been seeing a counselor for Post-Traumatic Stress Disorder (PTSD). She did not discover the error until recently and would like credit for her time in the service.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 17 Jan 02, the applicant's DD Form 2807-1, *Report of Medical History*, indicates no history of any mental health issues.

On 24 Apr 02, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.15 for fraudulent entry. The specific reason for the action was her failure to disclose her prior service treatment for depression. The Metal Health Evaluation, dated 17 Apr 02, indicated she was treated for depression, treatment history verified by her previous provider, and discontinued the use of an

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antidepressant the night before Basic Military Training (BMT). She was diagnosed with major depressive disorder (MDD), recurrent, moderate and was recommended for separation.

On 26 Apr 02, the discharge authority directed the applicant receive an ELS for fraudulent entry, with an uncharacterized service characterization.

On 30 Apr 02, the applicant received an uncharacterized ELS. Her narrative reason for separation is "Fraudulent Entry into Military Service" and she was credited with zero days of total active service.

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

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 17 Jun 24, Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

AFI 36-3208, *Administrative Separation of Airmen*, dated 10 Mar 00, describes the authorized service characterizations that were applicable at the time of the applicant's separation.

Honorable. The quality of the airman's service generally has met 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.

Under Honorable Conditions (General). 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 airman's military record.

Entry Level Separation. Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or
- The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

According to AFI 36-3202, *Separation Documents*, Table 4, note 3, time spent in an enlistment that is determined to be fraudulent and has been specifically terminated by reason of fraud is not creditable service.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request. A review of the available records finds no evidence or records to corroborate the applicant's contentions. There is no evidence or records she was threatened by a fellow airman and had lost sleep and feared for her safety because of this experience as she contended during service. She reported she was sexually abused as a child, but this is prior service experience with no evidence her condition was aggravated by her military service. There are no records she was ever diagnosed with PTSD or any other mental health condition caused by her military experience or service by a duly qualified mental health professional during service or in her lifetime. She claimed she told the Air Force she had a diagnosis that she did not really have so she could get discharged. There are no records to corroborate her claim and in fact, her discharge paperwork is not available or submitted for review so the actual reason for her fraudulent entry is not specified in her available records. There is no evidence or records her mental health condition was the reason for her fraudulent entry and no records to corroborate the notion her mental health condition had caused her discharge. Due to her discharge paperwork being unavailable, the presumption of regularity is applied and there is no error or injustice identified with her discharge. Lastly, the applicant was furnished with an uncharacterized character of service under ELS because she served less than 180 days of continuous active military service, and this characterization is consistent with past and present regulations for military separations. Therefore, her request for an upgrade of her discharge and change her narrative reason for separation is not supported due to regulations.

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 27 Aug 24 for comment (Exhibit E) but has received no response.

ADDITIONAL AIR FORCE EVALUATION

The AFRBA Psychological Advisor has reviewed the newly discovered records and continues to find insufficient evidence to support her request to upgrade her discharge and change her narrative reason for separation. The new records, which included a written statement from the applicant, repeatedly and consistently stated she had depression and was prescribed Celexa, an anti-depressant medication, before she entered the Air Force. In her statement, she claimed she misinterpreted or misunderstood the recruiter's question about her current medications. She claimed the recruiter told her if the medication was not bothering her at the time, then she should not worry about it as an explanation for why she omitted her use of Celexa. A response to her statement reported her recruiter denied her allegation of telling the recruiter she was prescribed Celexa and stopped taking the medication before processing at the Military Entrance Processing Station (MEPS). She was also noted to have said she was not very sure she told the recruiter

indicating inconsistent reporting by the applicant. Her mental health evaluation report revealed she sought help for depression the previous year and discontinued the anti-depressant medication the night before she left for BMT and not before processing at MEPS. This is another inconsistent report by the applicant. The mental health evaluation report also stated her previous provider had verified her treatment history for depression. This statement disputes the applicant's contention she reported having a diagnosis so she could get discharged even though it was not true. Her previous provider confirmed she did in fact have a diagnosis and was treated specifically for depression. The applicant failed to disclose her mental health condition and treatment history during her MEPS, which is considered a fraudulent entry. As her Notification Memorandum stated, had the Air Force known about this significant history, she would have been ineligible and disqualified to enlist in the Air Force. Her fraudulent entry was the reason for her separation from the Air Force, and her records were sufficient to demonstrate she did enter the Air Force fraudulently. The applicant claimed an airman threatened her which caused her to lose sleep and fear for her safety. There are no records or evidence this incident had existed or occurred during her military service. She reported being sexually abused as a child and alluded to developing PTSD from this traumatic experience. This is a prior service condition and experience and there is no evidence her military duties or service had aggravated her pre-existing condition. A diagnosis of MDD, recurrent, moderate was annotated in the mental health evaluation report. This is also a prior service condition with no evidence her military service or duties aggravated this pre-existing condition. The stressors of the BMT or military environment may have exacerbated her depressive symptoms of decreased sleep, diminished concentration, poor appetite, and depressed mood, but it did not permanently aggravate her pre-existing condition beyond the natural progression of the disease, illness, or condition. The applicant's pre-existing mental health condition of MDD, recurrent, moderate was a contributing factor to her discharge, but it was her failure to not report this condition and her treatment for depression that caused her discharge. Therefore, the Psychological Advisor finds the new records actually confirm there is no error or injustice with her discharge for the reason of fraudulent entry. For these reasons, her request for an upgrade of her discharge and change of narrative reason is not supported from a mental health perspective.

Liberal consideration was applied to the applicant's request in the original advisory. Due to the newly discovered records, it has been determined liberal consideration is not required to be applied to her petition because her mental health condition of PTSD and/or MDD were prior service conditions, and no evidence the condition was aggravated by her military service per Kurta Memorandum #15. However, if the Board chooses to still apply liberal consideration to her petition because it was already applied in the original advisory, the following are answers to the four questions from the Kurta Memorandum that were slightly revised based on the available records to include the newly discovered records. It is reminded, liberal consideration does not mandate an upgrade or a change to the records per policy guidance.

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge? The applicant marked "PTSD" on her application to the AFBCMR and contended she was sexually abused as a child and was threatened by a fellow airman causing her to lose sleep and fear for her safety. She believed she told the Air Force she had a diagnosis that was not true to get discharged.

She had seen a counselor for PTSD symptoms for this issue. She submitted no records for review or records to support her contentions and request.

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

There is no evidence or records the applicant's mental health condition of PTSD had existed or occurred during her military service. There are no records to confirm she was ever diagnosed with PTSD during her lifetime. There also is no evidence or records to substantiate her contentions she was threatened by a fellow airman during service. She reported she was sexually abused as a child and alluded to developing PTSD from this traumatic experience. This is a prior service condition and experience and there is no evidence her military duties or service had aggravated her pre-existing condition. There was a mental health evaluation report dated 17 Apr 02 in her military records reporting she was treated for depression before she entered the Air Force. Her previous provider had confirmed her treatment history. A diagnosis of MDD, recurrent, moderate was annotated in the report, and this is a prior service condition, and no evidence was aggravated by her military service.

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

There is no evidence or records to demonstrate that the applicant's mental health condition developed from being threatened by her fellow airman was the reason for her fraudulent entry. Her military records confirmed she did not report her mental health condition and treatment history during MEPS, and she claimed there was a miscommunication from her recruiter causing her non-disclosure. Her recruiter disputed her claim. The applicant did indeed fail to disclose her mental health history, and her action resulted in her discharge for the reason of fraudulent entry. There is no error or injustice identified with her discharge reason. Her pre-existing mental health condition of MDD, recurrent, moderate was a contributing factor to her discharge, but it was her failure to report this condition and her treatment for depression that caused her discharge. There is no evidence her mental health condition of PTSD had a direct impact or was the cause of her discharge. For these reasons, her mental health condition does not excuse or mitigate her discharge.

4. Does the condition or experience outweigh the discharge?

Since her mental health condition does not excuse or mitigate her discharge, her condition also does not outweigh her original discharge.

The complete advisory opinion is at Exhibit F.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 4 Feb 24 for comment (Exhibit G) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not 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. Airmen are given entry level separation with uncharacterized service when they fail to complete a minimum of 180 days of continuous active military service and the applicant served less than one month of active service; therefore, the type of separation and character of service are correct as indicated on her DD Form 214. Additionally, the Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the Board finds no evidence the applicant was threatened during training, nor does the Board find her mental health condition was aggravated beyond the nature progression of the disease. The Board considered applying liberal consideration to the applicant's request; however, finds her mental health condition did not excuse or mitigate the reason for her discharge, fraudulent entry due to the non-disclosure of a pre-existing condition. The Board notes the applicant's contention there was a miscommunication with her recruiter which prompted the non-disclosure; however, her military records do not support this claim as this was disputed by her recruiter. Furthermore, the Board finds she was correctly diagnosed and was properly treated for a mental health condition, Major Depressive Disorder (MDD), recurrent, moderate, which EPTS and was not permanently aggravated by her military service. The Board finds her Air Force duties may have been exacerbated but not permanently aggravated by her pre-existing mental health condition to which she failed to disclose upon entry into the service. For this reason, she was discharged with a fraudulent entry separation to which time spent on active duty is not considered creditable service. Therefore, the Board recommends against correcting the applicant's records.
4. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.
5. 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 application was not timely filed; it would not be in the interest of justice to excuse the delay; 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-2024-02071 in Executive Session on 19 Mar 25:

[REDACTED], Panel Chair

[REDACTED], Panel Member

[REDACTED], Panel Member

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

Exhibit A: Application, DD Form 149, dated 23 May 24.

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

Exhibit C: Letter (Liberal Consideration Guidance), SAF/MRBC to Applicant, dated 17 Jun 24.

Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 20 Aug 24.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Aug 24.

Exhibit F: Advisory Opinion, AFRBA Psychological Advisor, dated 3 Feb 25.

Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 4 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.

4/4/2025

Board Operations Manager, AFBCMR
Signed by: USAF

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