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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02084

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COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He was unable to obtain the conditions to the drills during training. He was placed in the brig for misconduct. He was informed by a higher ranked individual, if he did not want to return to the military, he could request a discharge. This individual understood and was aware he was suffering from severe mental health conditions. His mental health diagnosis was ignored and he self-medicated for over thirty years. He spent a lot of time in nature and smoking marijuana to relate to the world and its overwhelming conditions. He was unable to focus or adapt to the conditions while serving in the military. He was extremely inattentive. He is from African decent, and he feels the medical and pharmaceutical system experiments on African Americans. He is intelligent and does not feel the system understands his thought process. He does not want to be a liability to himself or be a victim of the medical system, which only destroys lives and experiments on people within the destructive medical field, especially black people.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 29 Apr 93, 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 5-46 for minor disciplinary infractions. The specific reasons for the action were:

- a. On 7 Dec 92, a Record of Individual Counseling (RIC) was issued for violating the mandatory curfew, when he was not found in his room during bed check on 7 Dec 92.

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- b. On 7 Jan 93, an RIC was issued for failing to go at the time prescribed to his appointed place of duty on 7 Jan 93.
- c. On 15 Jan 93, a Letter of Reprimand (LOR) was issued for failing to go at the time prescribed to his appointed place of duty on 14 Jan 93.
- d. On 9 Feb 93, an LOR was issued for failing a mandatory room inspection on 3 Feb 93.
- e. On 10 Feb 93, an RIC was issued for failing to concentrate on the instructor's presentation of academic material when he became drowsy on 10 Feb 93.
- f. On 12 Feb 93, an LOR was issued for failing to go at the time prescribed to his appointed place of duty on 10 Feb 93.
- g. On 22 Feb 93, an RIC was issued for failing to obey a direct order as dorm guard. He did not close the door as directed, and was in direct violation of AFR 35-10, *Dress and Personal Appearance of Air Force Personnel*, as his hat was worn wrong, and he placed his hands in his pockets on 20 Feb 93.
- h. On 24 Feb 93, an LOR was issued for being caught wearing civilian clothes outside the dormitory while in phase I on 21 Feb 93.
- i. On 25 Mar 93, an AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for not being in the dormitory by 2200 hours on 27 Feb 93. The applicant received forfeiture of \$200.00 pay, suspended, and 30 days correctional custody.
- j. On 29 Mar 93, an LOR was issued for violating the mandatory phase program for the fourth time by leaving base without permission on or about 13 and 14 Mar 93.
- k. On 7 Apr 93, an Air Training Command (ATC) Form 125A, *Record of Administrative Training Action*, indicates the applicant was eliminated from technical training for misconduct.

On 5 May 93, the acting Staff Judge Advocate found the discharge action legally sufficient.

On 6 May 93, the discharge authority directed the applicant be discharged for minor disciplinary infractions, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 7 May 93, 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 7 months and 22 days of total active service.

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

POST-SERVICE INFORMATION

On 5 Dec 24, the Board 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 Post Traumatic Stress Disorder (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 Dec 24, 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. A review of the applicant's available records finds there is no evidence or records to support the notion his mental health condition, including PTSD had a direct impact or was a contributing factor to his discharge. His service treatment records are not available for review and there are no records reflecting he received any mental health evaluation, treatment, or mental disorder diagnosis including PTSD during service. This would dispute his contention he was suffering from severe mental health conditions during service. He claimed his leadership understood and was aware he was suffering from severe mental health conditions and chose to ignore his conditions. There is no evidence or records to corroborate his claims. There is a record showing he was possibly being considered for a mental health evaluation after he was observed being drowsy during a lecture, but after a conversation with his commander, his commander determined a mental health evaluation referral was not necessary. The applicant had detailed his sleep schedule to his commander, and it appeared he was not getting enough sleep as the reason he was drowsy during the lecture. His commander recommended he change his sleep schedule and go to bed earlier. His lack of sleep possibly causing him to be drowsy during the lecture is not indicative of having a severe mental health condition. His commander stated, if any further incidents occurred, then a mental health evaluation would be considered. There are no records a mental health evaluation was considered

again because there were no other similar incidents which had occurred thereafter. His leadership did consider he had potential mental issues but after further discussion, his problems were not serious or significant enough to warrant a command referral for a mental health evaluation.

The applicant did not clarify how he developed PTSD, but his Department of Veterans Affairs (DVA) medical records reported he had developed PTSD from his childhood experiences of being kidnapped, trafficked, and rescued from being a child soldier in Africa. These traumatic experiences and his mental health condition of PTSD developed from these traumatic experiences which occurred and existed prior to service (EPTS). There is no evidence his military service aggravated his EPTS condition. There is no report he developed any traumatic experiences from his military duties documented in his military records, DVA records, or petition. He was diagnosed with PTSD about 31 years after his military service, which was caused by his prior to service experiences. Symptoms he reported to a provider at the DVA included being easily agitated, having high levels of anxiety, having panic attacks, and having an inability to be around crowds. He also contended he smoked marijuana to cope and was extremely inattentive. Except for inattention issues, there is no evidence or records he experienced any of the remaining symptoms during his military service. There is no evidence his inattention problems were the result of having a mental health condition. He did not have or display more classic symptoms of PTSD during service such as avoidance, sleep disturbances, nightmares, hypervigilance, exaggerated startled responses, flashbacks, depressed mood, anxiety, etc. It appeared from DVA records, he most likely had a delayed onset of PTSD as it may take time for symptoms to appear and develop and meet the diagnostic criteria for PTSD at a later time, or decades after his traumatic experience had occurred. Delayed onset of PTSD is not an uncommon occurrence. He claimed he self-medicated to cope with his mental health condition for over thirty years and there is no evidence he had any alcohol or substance use problems during service. The existing records do not support or substantiate he had PTSD or any other mental health conditions during service.

The applicant was discharged from service for engaging in a pattern of misconduct. Reports from his leadership and comments he had provided to his leadership about his behaviors revealed he did not want to accept any responsibility for his actions, he had a negative attitude towards his responsibilities, he lacked respect for authority, he was aware of the rules and regulations governing curfew violations and chose not to be present in his room for bed checks, he had family problems hindering his concentration and causing his low test scores and this issue appeared to be legal related because his commander referred him to the legal office for assistance, he had poor study habits, he was immature and lazy, he had physical/medical problems, he was placed on quarters for 72 hours causing him to miss class, he refused to follow directions, he did not want to go to physical conditioning because he was too tired, he had problems relating to others, and he admitted he broke phase I restriction. None of these observed and reported behaviors appeared to have been caused by having a mental health condition and some of his behaviors appeared to be willful and deliberate. There is no evidence he was in emotional distress or had a mental health condition impairing his judgment at the time of any of his misconduct. The applicant was not amenable to the continuous counseling and other rehabilitative efforts employed by his leadership, despite having multiple opportunities to repair his behaviors. He did contend he had problems adapting to the military and this was most likely the situation. Nevertheless, his adjustment

difficulties did not develop into a mental health condition and if so, it would have been considered an unsuiting condition for continued military service. There is no evidence he had or met the diagnostic criteria for an adjustment disorder during service. An exhaustive review of the available records finds no error or injustice with the applicant's discharge from a mental health perspective. His contention is determined to be not compelling or sufficient to support his contention and request for an upgrade of his discharge based on his mental health condition.

LIBERAL CONSIDERATION: The AFRBA Psychological Advisor opines liberal consideration is not required to be applied to the applicant's petition, because there is no evidence his military service had aggravated his pre-existing mental health condition of PTSD which was developed from his childhood trauma per Kurta Memorandum #15. Should the Board choose to apply liberal consideration to his petition, the following are answers to the four questions from the Kurta Memorandum from the available records for review. It is reminded that liberal consideration does not mandate an upgrade per policy guidance.

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

The applicant marked "PTSD" on his application to the AFBCMR and contended he was suffering from severe mental health conditions during service. He claimed his mental health condition was ignored by his leadership and he self-medicated for over thirty years. He was unable to focus, had extreme inattention, and was unable to adapt to the military. He did not identify how he developed PTSD in his petition.

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

The applicant's service treatment records are not available for review and there are no records he received any mental health evaluation, treatment, or mental disorder including PTSD during service. His commander did consider referring him to a mental health evaluation but after having a conversation with him, it was revealed he was not getting enough sleep as a plausible reason he was drowsy during lecture. This incident did not occur again and a reconsideration to refer him to a mental health condition was not necessary. There are records he was inattentive to his duties, responsibilities, and work performance, but his inattention is not indicative of having a mental health condition. There is no evidence he self-medicated to cope with his mental health condition during service as contended, because there are no records he had any alcohol or substance use problems during service. There is no evidence he had PTSD or any other mental health conditions during service. He was diagnosed with PTSD by a provider at the DVA over 30 years after his discharge from the Air Force. His traumatic experiences causing him to develop PTSD were identified as being kidnapped, trafficked, and recused from being a child soldier while he was living in Africa. His traumatic experiences and PTSD were EPTS, and no evidence it was aggravated by his military service with the Air Force. Symptoms he endorsed to the DVA provider included being easily agitated, having high levels of anxiety, having panic attacks, and having an inability to be around crowds. There is no evidence he experienced any of these symptoms during his military service.

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

There is no evidence or records that the applicant's mental health condition including PTSD was a contributing factor or had a direct impact on his discharge for a pattern of misconduct. Records and comments from his leadership and the applicant at the time of service showed no evidence his numerous misconducts were caused by his mental health condition. Most of his behaviors appeared to be willful and deliberate and no evidence he was in emotional distress or had a mental health condition impairing his judgment at the time of any of his misconduct. Therefore, his mental health condition does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since his mental health condition does not excuse or mitigate his discharge, his mental health condition also does not outweigh his 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 Dec 24 for comment (Exhibit E) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed but the untimeliness is waived because it is in the interest of justice to do so. 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 and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Nonetheless, the Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request. There are no records the applicant had any mental health condition, including PTSD or symptoms of PTSD during service or at the time of discharge. He was diagnosed with PTSD 30 years post-service, however the trauma associated with this condition EPTS and was not aggravated by service. Furthermore, there are no records of any alcohol or substance use problems during service. There is evidence the applicant was inattentive, but this is not indicative of having a mental health condition. Therefore, the applicant's contended mental health condition does not excuse or mitigate his discharge. The Board acknowledges the comments made by the applicant where he felt he was a victim of the medical system which experiments on black people; however, the applicant did not provide details of this experimentation he experienced, and no evidence was presented or found to corroborate this claim. Additionally, 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. Nonetheless, in the interest of justice,

the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of a criminal history report and other evidence showing the applicant made a successful post-service transition, the Board finds no basis to do so. 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 sufficient evidence to show he has made a successful post-service transition. The evidence he provides lacks references that demonstrate his character, remorse for his actions, and service to the community. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision, which could be in the form of a criminal history background check, a personal statement, character statements, and/or testimonials from community leaders/members specifically describing how his efforts in the community have impacted others. Should the applicant provide documentation pertaining to his post-service accomplishments and activities, this Board would be willing to review the materials for possible reconsideration of his request based on fundamental fairness.

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-2024-02084 in Executive Session on 16 Apr 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, dated 4 Jun 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 Dec 24.

Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 11 Dec 24.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Dec 24.

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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.

4/29/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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