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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02349

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

The correction should be made because at the time, he suffered from undiagnosed post-traumatic stress disorder (PTSD). Despite seeking mental health assistance and specifically requesting an alcohol inpatient program, he was denied support. He has undergone therapy and deeply regrets his past actions. In the years following, he has become an upstanding citizen, created a family, and pursued higher education. However, the mark on his record has hindered his career progression and prevented him from obtaining government opportunities. Although he still manages his PTSD daily, he has adopted healthy coping measures. Over 20 years have passed, and he has been diagnosed with PTSD and was awarded compensation from the Department of Veterans Affairs (DVA). It is unfair to continue to suffer the consequences for a condition which was undiagnosed at the 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 15 May 04, 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 5.49 for minor disciplinary infractions. The specific reasons for the action were:

- a. On 15 May 02, an AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for unlawfully striking another on the face and held her to the ground, refusing to let her up. The applicant received a reduction to the grade of airman, suspended, forfeiture of \$200.00 pay for two

AFBCMR Docket Number BC-2024-02349

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months, suspended, a reprimand, and the establishment of an unfavorable information file (UIF).

b. On 16 Aug 03, a Letter of Reprimand (LOR) was issued for reporting late for duty on or about 13 Aug 03.

c. On 1 Sep 03, an LOR was issued for being found wearing an unserviceable beret.

d. On 26 Apr 04, an AF Form 3070 indicates the applicant received NJP, Article 15 for unlawfully hitting another on her face with his hand. The applicant received a reduction to the grade of airman basic.

On an unknown date, the Staff Judge Advocate found the discharge action legally sufficient.

On 7 Jun 04, 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 17 Jun 04, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with four years, four months, and two days of total active service.

On 21 Jan 14, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge. He explained he was young, newly married, and made a mistake. He did not excuse his actions, but contended he was not offered mental health evaluations or even marriage counseling. The applicant detailed his post-service success and indicated it has been nine years, and he would like to put the past behind him.

On 21 Jan 15, the AFDRB 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. The board found no information to support the applicant's claim of inequity and concluded his misconduct was a significant departure from the conduct expected of military members.

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

POST-SERVICE INFORMATION

On 13 Jan 25, 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

AFBCMR Docket Number BC-2024-02349

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 13 Jan 25, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit D).

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 no evidence to substantiate any of his claims. He received at least three iterations of mental health treatment during his time of service. He was initially seen at the mental health clinic (MHC) or life skills support center (LSSC) on 16 Oct 00 by referral of his first sergeant/squadron because of work-related stress. He got angry with his co-workers for stealing equipment and he may be held liable for the items. He had only seen them one time. He returned to mental health treatment from 26 Mar 02 to 19 Dec 02 for marital problems and alcohol issues, presumably following his first domestic violence incident due to the timeline of events. During this iteration of treatment, he received individual psychotherapy, substance abuse treatment through the alcohol and drug abuse and prevention treatment (ADAPT) program, and anger management and marital therapy from the family advocacy program (FAP). He successfully completed treatment through these programs and his treatment was terminated. He returned to mental health for the third time beginning on 06 Jun 03 until he was discharged from service for depression caused by various stressors. He received individual psychotherapy and medication management treatment services for depression, alcohol dependency problems, and marital problems. His treatment participation and compliance were reported to have been episodic, and he often canceled or did not show up to his appointments. Despite his episodic compliance, his symptoms were reported to have improved. Also, during this last iteration of treatment, he engaged in a second domestic violence incident resulting in him being referred again to ADAPT for alcohol abuse and dependency treatment and to FAP for anger management and marital counseling.

The applicant contended he had undiagnosed PTSD and requested inpatient treatment but was denied support. There is no evidence to substantiate any of these claims. There are no records he had PTSD or experienced a traumatic event during service. The applicant did not clarify in his petition his traumatic experience, but his treatment records from the DVA revealed he possibly had trauma from being exposed to combat although he never deployed, he was exposed to actual or threatened death, serious injury, or sexual violence which was not clarified, and he later reported

he was violated during a blackout sometime in 2002 and did not want to discuss this incident further. There is no evidence or reports any of these incidents or experiences had existed or occurred during his military service. He did report he kept his experience of being violated a secret and this is a plausible reason for the non-existent record. While it is possible this latter traumatic incident had occurred, there is no evidence or records he had PTSD or PTSD symptoms during service. He was evaluated and treated by multiple mental health providers including licensed clinical social workers, clinical psychologists, and a psychiatrist from the MHC/LSSC, ADAPT, and FAP via individual psychotherapy, medication management, and group therapy from the period between 2000 to 2004 and none of his mental health providers had detected, assessed, or diagnosed him with PTSD. If he truly had PTSD during service, then one of his numerous providers over the years would have been able to identify his symptoms. However, it is reminded, mental health providers rely on the reporting and disclosure of symptoms, problems, and/or stressors from their clients/patients to formulate a diagnostic impression. If he kept his traumatic experience a secret as he reported, then his military mental health provider was deprived of the opportunity to fully assess him, so he was not diagnosed with PTSD. Thus, his claim he had undiagnosed PTSD during service was not caused by any misjudgment, misdiagnosis, or malicious intent by his military mental health providers. Moreover, the applicant received mental health treatment after his military service from at least three different military treatment facility (MTF)s when he was a dependent spouse of a military member, and none of his providers diagnosed him with PTSD. He received treatment for anxiety, depression, insomnia, and alcohol problems caused by his marital problems, unemployment, and relocation/permanent change of station from the MTFs.

The applicant was first diagnosed with PTSD by a mental health provider at the DVA on 7 Oct 22, 18 years after his discharge from the Air Force. PTSD symptoms he had endorsed included having repeated unwanted memories and disturbing dreams, flashbacks/reliving the event, feeling upset when reminded of experience, had strong physical reactions when reminded of the event, avoided memories, thoughts, or feelings associated with the event, avoided people, places, conversations, objects, or situations relating to the event, had trouble remembering important parts of the stressful experience, had strong negative beliefs about himself, others, or the world, blaming himself or someone else for the event, had strong negative feelings of fear, horror, anger, guilt, or shame, having loss of interest in activities he used to enjoy, feeling distant or cut off from others, having trouble experiencing positive feelings, having strong negative beliefs about himself, others, or the world, engaging in irritable behavior, angry outbursts, or acting aggressively, engaging in risky or self-harming behavior, being super alert, watchful or on guard, feeling jumpy or easily startled, having difficulty concentrating, and having trouble falling or staying asleep. Except for depression/depressed mood, there is no evidence he had or experienced the remaining symptoms during service. It appeared he had a delayed onset of PTSD causing his symptoms to develop over time and meeting the diagnostic criteria for PTSD several years after his traumatic experience had occurred. Delayed onset of PTSD is not an uncommon occurrence. Again, there is no evidence he had PTSD or undiagnosed PTSD during service.

The applicant clearly had an alcohol problem during service, and he reported he coped with his stressors with alcohol in his response to his administrative discharge action which caused his

maladaptive behavioral problems. It is possible he may have coped with his traumatic experience with alcohol, as most of his mental health issues and misconduct began in 2002, the same year he reported he was violated. He did not identify when in 2002 he was violated, so his misconduct could have predated his traumatic experience. Nevertheless, the applicant was provided with the appropriate alcohol rehabilitation treatment from ADAPT and by his individual psychotherapy provider during service. He claimed he requested inpatient treatment for his alcohol issues and was denied. There is no evidence to support his claim and no evidence he met the criteria for residential treatment. His compliance with treatment during his last iteration of mental health treatment was somewhat abysmal as he was reported to have canceled or did not show up to his appointments several times and his adherence to his medication treatment regimen was periodic. Based on his treatment history, he may not have been a good candidate for inpatient or residential alcohol treatment, as it appeared he was not amenable to the lower level of care treatment recommendations.

The applicant was discharged from service for physically assaulting his wife, reported late for duty, and wearing an unserviceable beret, which he had done a couple of times in the past. He was intoxicated during both domestic violence incidents and while it is possible his mental health condition from his traumatic experience may have caused him to drink and have anger issues, his misconduct is not excused or mitigated by his mental health condition. He physically assaulted his wife on two separate occasions and from the police and office of special investigations (OSI) reports, he inflicted serious injuries to his wife who was also another service member. These are serious offenses, and his behaviors were inappropriate and could not be excused, mitigated, or disregarded, even if he had a mental health condition at the time of the incident. His behaviors were too egregious. For his remaining misconduct of reporting late to duty and wearing an unserviceable beret, it is possible his depression may have caused him to be late to duty due to sleep issues, but this is speculative with no corroborating evidence to support this impression. There is no evidence his mental health condition caused him to repeatedly wear an unserviceable beret.

After an exhaustive review of the available records, the Psychological Advisor finds no error or injustice with the applicant's discharge from a mental health perspective. He had engaged in serious misconduct which could not be overlooked and outweighed by his mental health condition. It is acknowledged the applicant did receive a service connection from the DVA for PTSD with alcohol use. Service connection does not indicate causation or mitigation of the misconduct and discharge and receiving service connection merely suggests the condition was somehow related to his military service and not necessarily the cause of his discharge. His contention and submitted evidence are determined to not be compelling or sufficient to support his request for an upgrade of his discharge based on his mental health condition.

LIBERAL CONSIDERATION: Liberal consideration is applied to the applicant's petition due to his contention of having a mental health condition. It is reminded, liberal consideration does not mandate an upgrade or a change to the records per policy guidance. The following are responses to the four questions from the Kurta Memorandum from the information presented in the records for review:

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

The applicant contended he suffered from undiagnosed PTSD during service. Despite seeking mental health assistance and requesting an alcohol inpatient program, he was denied support. He did not identify his traumatic experience causing him to develop PTSD in his petition.

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

There is no evidence or records the applicant had PTSD or had undiagnosed PTSD during service. There are no reports of his traumatic experience in his military records. He did receive mental health treatment from the MHC/LSSC, ADAPT, and FAP during service for depression, alcohol dependency problems, marital problems, and anger management. He was given diagnoses and conditions of major depressive disorder (MDD), alcohol abuse, alcohol dependency, partner relational problem, and occupational problem during service. He was diagnosed with PTSD by his provider at the DVA about 18 years after his discharge from the Air Force, possibly from combat, although he never deployed, or from being violated sometime in 2002 which he did not want to further discuss. PTSD symptoms he had endorsed to his DVA providers included having repeated unwanted memories and disturbing dreams, flashbacks/reliving the event, feeling upset when reminded of experience, had strong physical reactions when reminded of the event, avoided memories, thoughts, or feelings associated with the event, avoided people, places, conversations, objects, or situations relating to the event, had trouble remembering important parts of the stressful experience, had strong negative beliefs about himself, others, or the world, blaming himself or someone else for the event, had strong negative feelings of fear, horror, anger, guilt, or shame, having loss of interest in activities he used to enjoy, feeling distant or cut off from others, having trouble experiencing positive feelings, having strong negative beliefs about himself, others, or the world, engaging in irritable behavior, angry outbursts, or acting aggressively, engaging in risky or self-harming behavior, being super alert, watchful or on guard, feeling jumpy or easily startled, having difficulty concentrating, and having trouble falling or staying asleep. Except for depression/depressed mood and anxiety, there is no evidence he had or experienced the remaining symptoms during service. It appeared he had a delayed onset of PTSD.

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

The applicant was discharged from service for physically assaulting his wife on two separate occasions, reporting late for duty, and wearing an unserviceable beret. His mental health condition may have caused some of his misconduct but do not excuse or mitigate most or all of his misconduct. The applicant was intoxicated when he assaulted his wife and his anger may stem from his mental health issues, but his misconduct of physically assaulting his wife and inflicting serious bodily harm on her were serious offenses and could not be excused or mitigated by his mental health condition. His behaviors are unacceptable and inappropriate and is determined to be too egregious to be disregarded by his mental health condition. 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 condition also does not outweigh his original discharge.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 13 Jan 25 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. The Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request. There is evidence the applicant was diagnosed with MDD, alcohol abuse, alcohol dependency, partner relational problem, and occupational problem during service; however, there is no evidence the applicant had PTSD or experienced a traumatic event during service; he was not diagnosed with PTSD until about 18 years post-discharge by the DVA. Receiving service connection from the DVA does not indicate causation or mitigation of his discharge but merely suggests the condition(s) were somehow related to his military service. The DVA under Title 38, U.S.C., is empowered to offer compensation for any mental health or 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 of time transpired since the date of discharge. The burden of proof is placed on the applicant to submit evidence to support his claim.

The applicant was discharged for assaulting his spouse on more than one occasion, reporting late for duty, and wearing an unserviceable beret. Despite the applicant being intoxicated at the time and dealing with anger issues, which may have stemmed from his mental health conditions, physically assaulting his spouse on multiple occasions is especially egregious and could not be excused or mitigated by his mental health condition. Furthermore, 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, particularly the lack of an FBI background check, 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 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-2024-02349 in Executive Session on 19 Mar 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 1 Jul 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 27 Nov 24.
- Exhibit D: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 13 Jan 25.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 13 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.

4/7/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2024-02349