



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02499

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His grade be corrected to master sergeant (E-7), effective 2 Mar 03.
2. He be given a medical retirement for Post-Traumatic Stress Disorder (PTSD) at 100 percent, effective 2 Mar 03.
3. He be issued the proper retirement identification card with access to TRICARE and other compensation for lost healthcare benefits (additional request per the applicant's response dated 9 Apr 25).

APPLICANT'S CONTENTIONS

He was passed over for master sergeant five times even though he met the criteria for promotion and held the grade of technical sergeant since 1994. He attended military school in 2000, performed extra duty while in the Air Force Reserve (AFR), filled in for his supervisor while he was absent, set up and deployed thousands of military members, created continuity binders, developed computer assistance procedures, and reported personnel for theft. He worked hard for this promotion and wanted to perform first sergeant duties, instead others were promoted to first sergeant who failed, and he was not considered because he did not drink with the boys.

He was told to lie during a medical exam not to disclose he was on medication for PTSD; however, he did not lie and was forced to retire due to the PTSD medication he was on. His unit failed him by not giving him a disability retirement for his Gulf War/Desert Storm PTSD.

Additionally, the applicant marked PTSD, Sexual Assault/Harassment, and Reprisal/Whistleblower on his application. However, he did not discuss his sexual assault or harassment experience or reprisal/whistleblower situation and did not submit any records for review and consideration.

The applicant's complete submission is at Exhibit A.

AFBCMR Docket Number BC-2024-02499

Work-Product

STATEMENT OF FACTS

The applicant is a retired AFR technical sergeant (E-6).

On 2 Dec 00, AF Form 910, *Enlisted Performance Report (EPR) (AB thru TSgt)*, indicates the applicant was given an overall rating of 3 for the period of 30 Jun 92 thru 1 May 00 which indicates a promotion recommendation of "Consider" with a rater comment, he is capable of taking on more responsibilities.

On 5 May 02, AF Form 910, indicates the applicant was given an overall rating of 4 for the period of 2 May 00 thru 1 May 02 which indicates a promotion recommendation of "Ready" with a rater comment, he has immense potential and capability-challenge him with performance-based responsibility.

Dated 1 Aug 03, Reserve Order [REDACTED] indicates the applicant was placed on the Reserve Retired List (RRL), effective 2 Mar 03.

Dated 3 Oct 18, Reserve Order [REDACTED] indicates the applicant was authorized retired pay per Title 10 U.S.C Section 12731 in the grade of technical sergeant (E-6).

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

APPLICABLE AUTHORITY/GUIDANCE

Per AFI 36-2113, *The First Sergeant*, dated 1 May 99, Chapter 11, *Air Force Reserve Component (AFRC) Personnel*, only highly motivated personnel who clearly meet the minimum eligibility requirements should be considered for assignment as a first sergeant. Military Personnel Flights (MPF) ensure each vacancy is advertised in all units and accepts applications for the position. To review and select the best-qualified candidate, the unit commander concerned convenes a First Sergeant Selection Board.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for a medical retirement. The applicant's treatment records from his military providers and/or military treatment facility are not available or submitted by the applicant for review. Despite the absence of these records, he did receive mental health treatment from the Department of Veterans Affairs (DVA) that coincided with his time in the AFR. His DVA treatment records did not specify whether he was on active-duty status or was on orders when he received treatment from them. A diagnosis of prolonged PTSD was indicated in his providers' notes, a psychiatrist and a licensed independent clinical social worker (LICSW), in the electronic medical records maintained by the DVA, but the content of their notes never discussed whether he had any traumatic experiences or identified the PTSD symptoms he had. He

was treated for and given a diagnosis of anxiety disorder not otherwise specified (NOS). His diagnosis of prolonged PTSD appeared to be an administrative or technical error. PTSD and anxiety disorder NOS are two different diagnoses. His anxiety was reported to have been caused by his relationship problems with his now former wife and with his civilian job at the post office. These were his personal and civilian life stressors and none of his mental health treatment notes discussed his difficulties with his military service or duties with the AFR. His notes did not report he was anxious because of his military service. He was prescribed 50 mg of Sertraline to treat his anxiety by his psychiatrist. This medication was not used to treat his PTSD so his contention he was on medication for PTSD is disputed by his objective treatment records. There are no records the applicant was ever diagnosed (justifiably) with PTSD while he was in the service. There are also no available records to confirm he was ever diagnosed with PTSD in his lifetime. His Compensation and Pension (C&P) exam performed on 2 Mar 12 reported the original PTSD exam was not available for review but when he was evaluated for PTSD during this encounter, he did not report any actual Criterion A events (traumatic or stressful experiences). In order to receive a formal diagnosis for PTSD, Criterion A is required to be met and since he did not meet Criterion A, he did not have or meet the diagnostic criteria for PTSD. The result of the C&P exam was somewhat consistent with the intake evaluation he completed with his new (and current) mental health provider on 19 Dec 12. During this evaluation, he did meet the criteria for Criterion A but did not meet Criterion B-D. His provider determined he did not meet the full Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM 5) criteria for PTSD at that time. He has been receiving individual psychotherapy from the same provider for several years including in the present following the intake evaluation. They have met over 100 times, and his provider never diagnosed him with PTSD. He has been consistently diagnosed and treated for unspecified anxiety disorder and unspecified depressive disorder by this provider. He also received group therapy treatment for anxiety. His group therapy provider reported he was service-connected for anxiety disorder and unspecified depressive disorder; however, no mention of PTSD.

Regardless of whether the applicant had a confirmed PTSD diagnosis during service, there is no evidence he had any unfitting mental health conditions including PTSD, unspecified anxiety disorder/anxiety disorder NOS, or unspecified depressive disorder that would result in a medical discharge. Receiving mental health treatment and/or a mental disorder diagnosis does not automatically render a condition unfit for military service. There are no records he was ever placed on a duty limiting condition profile because of his mental health condition, deemed not worldwide qualified (WWQ) or not deployable due to his mental health condition, and no statement from his leadership his mental health condition had interfered with his ability to perform his military duties in accordance with his office, grade, rank, or rating. He claimed he was forced to retire due to his medication usage for PTSD. There are no records to corroborate this claim. The use of medication does not necessarily render the condition unfit as well. If he had reported his medication usage to his military provider, a waiver would be initiated, and he would need to receive an approved waiver from the military to continue serving while on the medication. If the waiver was denied, then he would be referred to the Medical Evaluation Board (MEB) for a medical discharge. There are no records any of these events had occurred. Furthermore, since the applicant was in the AFR, he would need to receive an In Line of Duty (ILOD) determination for his mental health condition in order to receive a compensable (disability rating) medical discharge. If no ILOD exists and his

mental health condition is unfit, he would receive a non-compensable or non-ratable medical discharge. There are no records he received an ILOD determination for his mental health condition. There is no evidence or records his mental health condition caused him to retire or be discharged from the USAFR. For these reasons, his request for a medical retirement discharge for his mental health condition is not supported.

The applicant marked "SEXUAL ASSAULT/HARASSMENT" on his application but provided no information about either experience. There is no evidence or records he experienced or reported being sexually assaulted or harassed during his time in service. There are no records supporting he had developed a mental health condition such as PTSD, anxiety, depression, etc. from being sexually assaulted or harassed. There is also no evidence any of these experiences had a direct impact or was a contributing factor to his discharge.

Per the applicant's treatment records, he has been service-connected by the DVA for his mental health condition. For awareness, the military's Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on post-service progression of disease or injury. To the contrary, the DVA, operating under a different set of laws, Title 38, U.S.C., is empowered to offer compensation for any 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 time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating awards as the level of impairment from a given medical condition may vary [improve or worsen] over the lifetime of the veteran.

Finally, liberal consideration is not applied to the applicant's request for a medical retirement discharge because the updated clarifying guidance, the Vazirani Memorandum, published in Apr 24, clearly states that liberal consideration does not apply to fitness determinations, which includes medical discharge, disability, and retirement requests. Therefore, liberal consideration is not applied to his petition. The updated clarifying guidance also instructed a bifurcate review should be performed when a mental health condition such as PTSD or traumatic brain injury (TBI) potentially contributed to the circumstances of discharge or dismissal to determine whether an upgrade to the discharge or a change in the narrative reason is appropriate. Since the applicant was retired from the AFR, he would receive an honorable discharge, so a bifurcate review is not required.

The complete advisory opinion is at Exhibit C.

AFRC/A1KK recommends denying the applicant's request for promotion to master sergeant finding no evidence of an error or injustice. Per AFI 36-2502, *Enlisted Airman Promotion and Demotion Programs*, paragraph 8.1, *Program Objectives*, a promotion is an advancement to a higher grade based on past performance and future potential. Additionally, only the promotion

authority may approve a promotion and any commander/director or equivalent in the airman's chain of command may disapprove a promotion per paragraph 8.2. Airmen must be recommended for promotion by their unit commander and meet grade and position specific promotion prerequisites.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 27 Feb 25 and 6 Mar 25 for comment (Exhibit D and F) and the applicant replied on 9 Apr 25. In his response, the applicant contends his correct grade should be master sergeant and he should have been medically retired at 100 percent. He enlisted into the AFR as a technical sergeant and performed at the level consistent of a master sergeant and was passed over repeatedly, without just cause and others less qualified were promoted over him.

He was told to falsify his medical status by his superior by concealing his PTSD with medication prescribed to him by the DVA. He was barred from deployment in 2002 due to his medical profile and was told he would be retired despite being eligible for a 100 percent medical retirement. In 2008, he was misinformed about his eligibility for TRICARE as he was eligible to receive these benefits well before his 60th birthday per TRICARE Reserve eligibility regulations.

Furthermore, he was subjected to retaliation for reporting misconduct within his unit. His concerns were not reported to leadership which violated policies on integrity and accountability. Following this report, he was increasingly marginalized, denied rightful promotions, and forced to retire early.

The applicant's complete response is at Exhibit G.

FINDINGS AND CONCLUSION

1. The application was not timely filed. 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)*.
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 recommendations of the AFRBA Psychological Advisor and AFRC/A1KK and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board finds no evidence to indicate the applicant suffered from PTSD while in the AFR that met the criteria to be considered for DES processing. The mere existence of a mental health diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. The applicant's military duties were not degraded

due to his PTSD or any other mental health diagnosis. A Service member shall be considered unfit when the evidence establishes the member, due to physical or mental health disability, is unable to reasonably perform the duties of his or her office, grade, rank, or rating. Furthermore, a rating by the DVA, based on new and/or current exams conducted after discharge from service, does not equate to a medical separation. The military's DES established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries, which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at or near the time of separation and not based on post-service progression of disease or injury. Whereas the DVA can offer compensation for any medical or mental health condition with an established nexus with military service, without regard to a member's fitness to serve, reason for separation, or the length of time since the member's discharge. Additionally, the Board notes the applicant's contention he was misinformed about his eligibility for the TRICARE Reserve program; however, no evidence was presented to suggest the applicant was misinformed about his eligibility. This program has several participation requirements and is a premium-based, healthcare plan to which the applicant needs to apply through TRICARE (Humana Military or TriWest Healthcare Alliance). Furthermore, the applicant contends he should have been promoted to master sergeant as a first sergeant. This duty epitomizes the highest qualities to always remain perceptive, creditable, and to exemplify the core values of the Air Force and requires individuals to have exceptional leadership and managerial skills. However, there is no indication, nor did the applicant provide evidence he was being considered, had applied, or was denied a first sergeant special duty assignment. Lastly, the applicant marked reprisal/whistleblower on his application alleging he has been the victim of reprisal and has not been afforded full protection under the Whistleblower Protection Act (10 U.S.C. Section 1034). By policy, reprisal complaints must be filed within one year of the alleged incident or discovery to facilitate the inspector general (IG) investigation. However, the applicant has not provided any evidence he filed an IG complaint alleging reprisal. Nevertheless, the Board reviewed the complete evidence of record to reach its own independent determination of whether reprisal occurred. Based on the review, the applicant failed to provide substantial evidence to establish he was reprised against for reporting theft within his section or any other allegation. Therefore, in the absence of persuasive evidence to the contrary, the Board does not find the applicant has been the victim of reprisal. Therefore, the Board recommends against correcting the applicant's records.

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 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 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-2024-02499 in Executive Session on 16 Apr 25 and 27 Apr 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 16 Jun 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 26 Feb 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Feb 25.
- Exhibit E: Advisory Opinion, AFRC/A1KK, dated 5 Mar 25.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Mar 25.
- Exhibit G: Applicant's Response, dated 9 Apr 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.

4/29/2025

[REDACTED]

Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2024-02499