



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02930

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He was discharged by his superiors due to his mental health being an incapacitation to his work duties. He was sent to the mental health clinic (MHC) prior to being discharged, as he was pointed out for having possible mental health issues due to the events which were happening while at his duty station.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On an unknown date, 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 misconduct: minor disciplinary infractions. The specific reasons for the action were:

- a. On 21 May 08, a Letter of Counseling (LOC) was issued for failing a no-notice dormitory inspection on or about 16 May 08. He again failed his room inspection after having been given the opportunity to get the room into inspection-order on or about 19 May 08 and on or about 20 May 08.
- b. On 3 Oct 08, a Letter of Reprimand (LOR) was issued for failing to wear his uniform properly and maintain proper grooming standards. Additionally, he failed to have his required physical training (PT) gear available for the wing run, which caused him to not report at the required time, on or about 3 Oct 08.

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c. On 16 Jan 09, an LOR was issued for failing to go at the time prescribed to his appointed place of duty on or about 14 Jan 09.

d. On 18 Feb 09, an LOR was issued for failing to go at the time prescribed to his appointed place of duty. Additionally, he failed to report properly groomed on or about 17 Feb 09.

e. On 19 Mar 09, an LOR was issued for failing to report to a mandatory meet and greet with the Major Command (MAJCOM) functional manager on or about 18 Mar 09.

f. On 23 Mar 09, an LOR was issued for failing to wear his uniform properly and render proper customs and courtesies to officers by not saluting on or about 20 Mar 09.

g. On 13 May 09, an LOR was issued for failing to wear his uniform properly and failed to report back to duty within the allotted time limit, in which he was given to make corrections to his uniform on or about 11 May 09.

h. On 23 Jun 09, an LOR was issued for failing to have all of his personal gear available to process in the operational readiness exercise mobility line. In addition, he was direct to report to base ops at 1000 and did not report until 2025, on or about 15 Jun 09.

On 3 Aug 09, the discharge authority directed the applicant be discharged for misconduct: minor disciplinary infractions, with a general (under honorable conditions) service characterization.

On 7 Aug 09, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct (Minor Infractions)" and he was credited with 1 year, 7 months, and 20 days of total active service.

On an unknown date, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge. He contended the discharge was inequitable, as it was too harsh. The misconduct was a result of his obsessive-compulsive disorder with associated personality and anxiety disorder and due to these disorders, he could not comprehend the consequences of his misconduct.

On 28 Feb 13, 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 noted there was no record of any diagnosis in the applicants medical records and the applicant indicated he did not have any medical or mental health issues at the time of separation. The AFDRB also noted the numerous administrative actions provided the applicant with ample opportunity to correct his negative behavior.

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

POST-SERVICE INFORMATION

On 14 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

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

[REDACTED]

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 4 Apr 24, the Under Secretary of Defense for Personnel and Readiness issued a memorandum, known as the Vazirani Memo, to military corrections boards considering cases involving both liberal consideration discharge relief requests and fitness determinations. This memorandum provides clarifying guidance regarding the application of liberal consideration in petitions requesting the correction of a military or naval record to establish eligibility for medical retirement or separation benefits pursuant to 10 U.S.C. Section 1552. It is DoD policy the application of liberal consideration does not apply to fitness determinations; this is an entirely separate Military Department determination regarding whether, prior to "severance from military service," the applicant was medically fit for military service (i.e., fitness determination). While the military corrections boards are expected to apply liberal consideration to discharge relief requests seeking a change to the narrative reason for discharge where the applicant alleges combat- or military sexual trauma (MST)-related PTSD or TBI potentially contributed to the circumstances resulting in severance from military service, they should not apply liberal consideration to retroactively assess the applicant's medical fitness for continued service prior to discharge in order to determine how the narrative reason should be revised.

Accordingly, in the case of an applicant described in 10 U.S.C. Section 1552(h)(l) who seeks a correction to their records to reflect eligibility for a medical retirement or separation, the military corrections boards will bifurcate its review.

First, the military corrections boards will apply liberal consideration to the eligible Applicant's assertion that combat- or MST-related PTSD or TBI potentially contributed to the circumstances resulting in their discharge or dismissal to determine whether any discharge relief, such as an upgrade or change to the narrative reason for discharge, is appropriate.

After making that determination, the military corrections boards will then separately assess the individual's claim of medical unfitness for continued service due to that PTSD or TBI condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

On 14 Jan 25, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, describes the authorized service characterizations.

[REDACTED]

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 has been presented to support the applicant's request for an upgrade of his discharge or a medical discharge/retirement. There is insufficient evidence the applicant was unfit for duty during his service or at discharge. Being diagnosed with a mental health condition and receiving mental health treatment do not automatically render a condition as unfitting. More information is required to determine unfitness such as being placed on a permanent duty limiting condition (DLC) profile for a mental health condition, being deemed not worldwide qualified (WWQ) due to a mental health condition, and impact or interference of the condition on the service member's ability to reasonably perform their military duties in accordance with their office, grade, rank, or rating. These designations were absent from his records. While the applicant was diagnosed with mental health conditions, his records indicate, with treatment, his symptoms improved. The applicant was never placed on a permanent DLC. He was placed on a temporary profile when he started psychotropic medication. This practice is common and required when a patient is placed on psychotropic medications to ensure they do not have any adverse reactions and are stabilized on medication. His temporary profile lasted from 11 Dec 08 to 31 Mar 09. There is no indication it was renewed. His chart termination note on 19 Jun 09, indicated this restriction was a result of starting medication. This same note also indicated he had improved. His prognosis was determined to be good and at termination, he had no duty restrictions. This note also indicated his global assessment of functioning (GAF) was currently a 75 and was a 70 over the past year. The scale goes from 1 to 100, with 90-100 showing superior functioning. A 70 indicates he showed mild symptoms, which improved to a 75, which shows a transient and expected reaction to stressors (slight impairment).

On his separation examination on 31 Jul 09, the applicant indicated he felt fine. The examiner determined he did not show any symptoms of anxiety or depression, he was worldwide qualified, and he was cleared to separate. Additionally, the applicant earned the Air Force achievement medal for outstanding achievement from 16 Jun 08 to 14 Sep 08.

The Psychological Advisor concludes there is insufficient evidence to support the applicant's mental health condition had an impact on his ability to perform the duties of his office, grade, rank, and rating, and he was fit for duty from a psychological perspective. The applicant's mental health conditions do not mitigate or excuse his misconduct. The misconduct is not part of the sequelae of symptoms associated with his mental health conditions. Additionally, the applicant's reasons for much of his misconduct at the time are not related to mental health. He blamed his lateness on

inadequate parking and poor time management skills. He blamed his uniform issues on not knowing how to launder his uniform correctly. He also mentioned difficulty with multitasking. The Psychological Advisor concludes there is no nexus between his misconduct and his mental health conditions. After considering the entire record and contentions, there is insufficient evidence to suggest the applicant had any mental health condition which would mitigate the misconduct.

LIBERAL CONSIDERATION: Liberal consideration is applied to the applicant's petition due to the contention of 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 based on information presented in the records:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant check marked "other mental health" on his application.

2. Did the condition exist or experience occur during military service?
The applicant was diagnosed with anxiety disorder and obsessive-compulsive personality disorder, an unsuiting mental health condition, not unfitting while in service.

3. Does the condition or experience excuse or mitigate the discharge?
The applicant's mental health conditions do not mitigate or excuse his misconduct. The misconduct is not part of the sequelae of symptoms associated with his mental health conditions. Additionally, the applicant's reasons for much of his misconduct at the time are not related to mental health. He blamed his lateness on inadequate parking and poor time management skills. He blamed his uniform issues on not knowing how to launder his uniform correctly. He also mentioned difficulty with multitasking. The Psychological Advisor concludes there is no nexus between his misconduct and his mental health conditions.

4. Does the condition or experience outweigh the discharge?
Since the applicant's mental health condition does not excuse or mitigate his discharge, the applicant's condition also does not outweigh the 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 4 Feb 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).

[REDACTED]

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. The applicant's misconduct is not a result of symptoms associated with his mental health conditions and his reasons for much of his misconduct at the time were not related to mental health. Furthermore, the Board finds the applicant's mental health condition did not render him unfit to the level necessary to be processed through the Disability Evaluation System (DES) for a medical separation. The mere existence of a mental health condition does not automatically determine unfitness and eligibility for a medical separation or retirement. 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. Additionally, the applicant 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, or 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.

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

[REDACTED]

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-2024-02930 in Executive Session on 21 May 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 13 Aug 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 14 Jan 25.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 30 Jan 25.
- Exhibit E: 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.

6/10/2025

X [REDACTED]

[REDACTED]
Board Operations Manager, AFBCMR
Signed by: USAF