



UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03128

Work-Product

COUNSEL: *Work-Product*

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He has been depressed, had anxiety, and felt lost in the world. Shortly after he was discharged, he was sent to the psych ward for attempting to harm himself. He has been homeless and in jail multiple times. He has nightmares from the time he spent in the military and the gunshots going off in his head daily. The mental abuse he received from his sergeants never stops making him feel like he is worthless. He has been diagnosed with post-traumatic stress disorder (PTSD), bipolar disorder, and dissociative and conversion disorder. He has been unable to maintain a high quality of life due to the things he saw and heard being in the military. He did not know how to receive help and did not have the resources to get help. He has recently been able to see a doctor who is trying to help him understand and process what happened to him during his time in the military. He wants to be able to get the help he needs in order to have a better quality of life.

In support of his request for a discharge upgrade, the applicant provides a medical information sheet.

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 4 May 05, 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 20 Jan 05, a Letter of Counseling (LOC) was issued for leaving base in civilian clothes on or about 15 Jan 05.
- b. On 31 Jan 05, a Letter of Reprimand (LOR) was issued for sleeping on duty, on or about 27 Jan 05.

- c. On 10 Feb 05, an Air Education and Training Command (AETC) Form 173, *Student Record of Academic/Nonacademic Counseling and Comments*, was issued for sleeping in class on 10 Feb 05.
- d. On 17 Feb 05, an AETC Form 173 was issued for reporting late for a mandatory formation on 16 Feb 05.
- e. On 15 Mar 05, an LOR was issued for failing to show an identification card when entering the base, causing a delay in training on or about 15 Mar 05.
- f. On 31 Mar 05, an LOR was issued for disobeying a lawful order by having females in a male dorm and then leaving after accountability to take them home on 29 Mar 05.
- g. On 6 Apr 05, an LOR was issued for disobeying a direct order to go to a clinic appointment at the time prescribed. Furthermore, he failed to obey an order to not eat in the dining facility in his physical training (PT) gear on or about 5 April 05.
- h. On 6 Apr 05, an LOR was issued for sleeping during a detail on 6 Apr 05.

On 6 May 05, the Acting Chief, Military Justice found the discharge action legally sufficient.

On 11 May 05, 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 16 May 05, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with 7 months and 19 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 29 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 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 29 Jan 25, the Board staff provided the applicant with 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 recommends denying the application, finding insufficient evidence to support the applicant's request for an upgrade to his discharge based on his mental health condition. A review of the available records finds the applicant's contentions are not supported by his objective military records. His service treatment records are not available or submitted by the applicant for review, so there are no records to confirm he had any mental health conditions during service. Per his submitted record, he was diagnosed with moderate cannabis use disorder, bipolar disorder, unspecified, PTSD, and dissociative and conversion disorder, unspecified almost 20 years after his discharge from the Air Force. There is no evidence or records he had or experienced any of these conditions during his brief time in service, including no evidence he used cannabis to cope with his mental health condition, had experienced any manic or hypomanic episodes, traumatic events, or dissociative episodes, and/or had neurological issues. Based on his statement for this petition, he was depressed and anxious, was hospitalized for attempting to harm himself, and had ruminating thoughts about his stressful experiences in the Air Force after he was discharged from the military. There is no evidence he had depression, anxiety, or suicidal ideation and behaviors during service or before he was discharged from the service as well. It appeared he developed these conditions after his discharge. He was discharged from service for engaging in numerous acts of misconduct such as sleeping on duty, detail, and in class, reporting late to mandatory formation, failing to show an identification card when entering the base, and disobeying several lawful orders by having females in the male dormitory and then he left after taking accountability to take them home, leaving base in his civilian clothes, failing to go to a clinic appointment, and eating in the dining facility in his PT gear. There is no evidence his mental health condition caused any of this misconduct resulting in his discharge or he had a mental health condition or was in emotional distress impairing his judgment at the time of any of his misconduct. Therefore, the Psychological Advisor finds no error or injustice with his discharge from a mental health perspective.

LIBERAL CONSIDERATION: Liberal consideration is applied to the applicant's request due to the contention of having a mental health condition during service. 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 his records for review:

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

The applicant contended he had been depressed and anxious since he left the military and was hospitalized for attempting to harm himself shortly after his discharge. He has had nightmares, would hear gunshots going on in his head, and claimed he experienced mental abuse from sergeants. He had been diagnosed with PTSD, bipolar disorder, and dissociative and conversion disorder. He did not discuss how his mental health condition may have caused, excused, or mitigated his discharge.

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

The applicant's service treatment records are not available or submitted by the applicant for review and thus, there is no evidence or records that he had any mental health conditions including PTSD, bipolar disorder, and dissociative and conversion disorder during service. He was diagnosed with these conditions in addition to moderate cannabis use disorder almost 20 years after his discharge from the Air Force. From his statement for this petition, he developed depression and anxiety and had suicidal ideation and behaviors after he was discharged from the service. There is no evidence he experienced any of these conditions or issues during service. There is also no evidence he was mentally abused by his sergeants as contended.

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

There is no evidence the applicant's mental health condition including PTSD, bipolar disorder, and dissociative and conversion disorder caused any of his misconduct resulting in his discharge from service. There is also no evidence that he had a mental health condition or was in emotional distress 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 the applicant's 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 5 Mar 25 for comment (Exhibit E) but has received no response.

The applicant's complete response is at Exhibit F.

FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all discharge upgrade requests under fundamental fairness or clemency are technically untimely. However, it would be illogical to deny a discharge upgrade application as untimely, since the Board typically looks for over 15 years of good conduct post-service. 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 no evidence a mental health condition or emotional distress caused the misconduct which resulted in the applicant's discharge. Furthermore, it appears the conditions contended by the applicant developed post-service, as they were diagnosed almost 20 years after his discharge. Therefore, his contended mental health condition does not excuse or mitigate his discharge. 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 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-2024-03128 in Executive Session on 18 Jun 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 30 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 29 Jan 25.

Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 5 Feb 25.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 5 Mar 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.

6/26/2025

X

Work-Product

Work-Product

Board Operations Manager, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2024-03128

Work... Work-Product