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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03227

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

An upgrade of his discharge is warranted due to his mental health struggles and PTSD he incurred as a result of the discriminatory treatment he received during his service in the Air Force. The combination of the challenges and trauma led to behavior he regrets. He deeply regrets this and his time in service did not reflect his true character or values.

He has grown since his discharge. He has earned a bachelor's degree in graphic design and a master's degree in instructional technology. He worked as a counselor for troubled teens for six years and is a licensed teacher. He has been teaching in a Title 1 low income public school for the past seven years. He is deeply committed to making a difference and he has worked tirelessly to improve his life and the lives of those around him.

In support of his request, the applicant provides a personal statement, State educator's certificate, college certificate and other documents in support of his request.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 28 Mar 00, 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 5.50.2 for a pattern of misconduct. The specific reasons for the action were:

- a. On 13 Oct 99, he failed to go to a mandated squadron commander's call. For this misconduct, he received a Letter of Counseling (LOC) dated 23 Oct 99.
- b. On 16 Oct 99 and on 23 Oct 99, he failed to go at the time prescribed to his appointed place of duty in accordance with the daily duty roster. For this misconduct, he received a LOC dated 23 Oct 99.

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- c. On 22 Oct 99, he failed to report for his required flight physical fitness training (PT) and received a LOC dated 23 Oct 99.
 - d. On 27 Oct 99, he disregarded a direct order by failing to report for his required appointment for M-9 firing. He received a Letter of Reprimand (LOR) dated 28 Oct 99 for this misconduct.
 - e. On 5 Jan 00, after his supervisor gave him a direct order, he disregarded the order. Also, on 5 Jan 00, he disregarded a direct order to report to remedial training due to his recent quality control evaluation failure. For this misconduct, he received a LOR dated 7 Jan 00, which was subsequently placed in an Unfavorable Information File (UIF).
 - f. On 6 Jan 00, he disregarded a direct order to report to his medical appointment. Also, on 6 Jan 00, he disregarded a direct order to report for remedial training. For this misconduct, he received a LOR dated 10 Jan 00. This LOR was subsequently placed in a UIF, and he was placed on the control roster.
 - g. On 5 Feb 00, he reported for duty without his required beret and received a LOR dated 6 Feb 00.
 - h. On 9 Feb 00, he failed to go at the time prescribed to his appointed place of duty. Also, on 8 Feb 00, he was derelict in the performance of his duties by willfully failing to perform his dormitory bay orderly duties. This misconduct resulted in nonjudicial punishment (NJP). Punishment included a suspended reduction to the grade of airman basic, forfeiture of \$234 pay and 14 days extra duty.
 - i. On 27 Feb 00, he failed to report for his extra duty as required. When someone was sent to find him, they had to wake him up in his dorm room. This misconduct resulted in a vacation of his previously suspended reduction to the grade of airman basic.
 - j. On 29 Feb 00, he made a false official statement that he had a battle dress uniform shirt in his dorm room with the rank of airman. Also, on 4 Mar 00, he failed to go at the time prescribed to his appointed place of duty. This misconduct resulted in a Summary Court-Martial finding him guilty of Articles 86 and 107 of the Uniform Code of Military Justice (UCMJ). He was sentenced to a forfeiture of two-thirds pay for one month and confinement for 15 days.

In an undated memorandum, the Staff Judge Advocate found the discharge action legally sufficient.

On 4 Apr 00, the discharge authority directed the applicant be discharged for Misconduct – Pattern of Misconduct, with a General (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 5 Apr 00, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Misconduct” and he was credited with 1 year and 12 days of total active service.

On 25 Jun 01, the applicant submitted a request to the Air Force Board for Correction of Military Records for an upgrade to his discharge. On 29 Jun 01, the AF Review Boards Agency informed

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the applicant to submit a DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*, to the Air Force Discharge Review Board (AFDRB).

On 5 Sep 01, the AFDRB informed the applicant the DD Form 293 had not been received and the case would be closed in 30 days if they did not receive the completed application.

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

POST-SERVICE INFORMATION

On 27 Sep 24, the Board staff emailed the applicant a request for post-service information to include a standard criminal history report from the Federal Bureau of Investigation (FBI). This email informed the applicant that an FBI background check would assist the Board in evaluating his case for clemency and fundamental fairness. Although the applicant did provide post-service information with his application, he did not provide any additional post-service information or an FBI background check or other criminal history data check.

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 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

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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 21 Nov 2024, the Board staff provided the applicant with 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 Air Force Review Boards Agency Psychological Advisor finds insufficient evidence from a mental health perspective to support the applicant's request to change to his records.

While it is plausible he experienced discrimination during his time in the Air Force, there are no records or evidence he developed a mental health condition like PTSD from this experience during service. His service treatment records are not available or submitted by the applicant for review, so there are no records confirming he received any mental health evaluation, treatment, or mental disorder diagnosis, including PTSD during service. There are no records or evidence he was diagnosed with PTSD by a duly qualified mental health professional in his lifetime. The applicant did not identify the PTSD symptoms he had and how they caused all of his misconduct, resulting in his discharge from service. There are no records confirming he experienced PTSD symptoms. There was also no documentation or observations by his leadership for any concerns about his mental health that may warrant a command referral for a mental health evaluation.

The applicant submitted several statements at the time of service in response to his disciplinary actions. He did not discuss having any mental health issues or conditions that caused him any problems. None of the explanations he offered in response to his misconduct demonstrated his misconduct or behaviors were caused by having a mental health condition. None of his misconduct appeared to have been caused by having a mental health condition and some of his misconduct may have been deliberate. There is no evidence that the applicant had any mental health conditions, including PTSD, impairing his judgment at the time of any of his misconduct.

From the collective information presented, this psychological advisor finds no error or injustice with his discharge from a mental health perspective. There is no evidence that his mental health

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condition had a direct impact or was a contributing factor impacting his overall functioning, causing his discharge from service as contended. His personal testimony and submitted records for review were determined to be insufficient 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 request for an upgrade of his discharge due to his contention of having a mental health condition. It is reminded that liberal consideration does not mandate an upgrade or a change to the record per policy guidance. The following are responses to the four questions from the Kurta Memo:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
The applicant contended he experienced a combination of challenges and trauma related to the discriminatory treatment he received, leading him to not be equipped to manage them at the time of service. He developed PTSD from this experience and struggled with his mental health, which impacted his behavior. He submitted no medical records to corroborate his contentions.

2. Did the condition exist or did the experience occur during military service?
While it is plausible the applicant experienced discrimination during his time in the Air Force, there are no records or evidence he developed a mental health condition like PTSD from this experience during service. His service treatment records are not available or submitted by the applicant for review, so there are no records confirming he received any mental health evaluation, treatment, or mental disorder diagnosis, including PTSD during service. There is also no evidence or records he was diagnosed with PTSD by a duly qualified mental health professional in his lifetime.

3. Does the condition or experience actually excuse or mitigate the discharge?
There is no evidence that the applicant's mental health condition, including PTSD, had a direct impact or was a contributing factor to his numerous acts of misconduct resulting in his discharge. He and his leadership provided statements during service about the reasons he provided for his misconduct and none of the explanations demonstrated his misconduct was caused by having a mental health condition. There is no evidence the applicant had any mental health conditions, including PTSD, impairing his judgment at the time of any 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 does not outweigh his original discharge.

The complete advisory opinion is at Exhibit F.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the mental health advisory opinion to the applicant on 2 Jun 25 for comment (Exhibit F) but received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all clemency requests are technically untimely. However, it would be illogical to deny a clemency application as untimely, since the Board typically looks for over 15 years of good conduct post-service.

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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 finds the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. The Board concurs with the rationale 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 applicant's request due to the contention of a mental health condition; however, the Board finds no evidence his mental health condition had a direct impact or nexus on his behavior and misconduct resulting in his discharge. Therefore, the Board finds his condition or experience does not excuse, mitigate, or outweigh his discharge. In the interest of justice, the Board considered upgrading the discharge based on clemency and fundamental fairness. However, given the evidence presented the Board finds the evidence insufficient to warrant relief. In this respect, the Board notes the applicant provides evidence of his post-service academic accomplishments and indicates he is a public school teacher; however, he has not provided any character statements or letters of support attesting to his character and contributions to his community. The applicant also did not provide an FBI or other criminal history data check report. Should the applicant provide such documentation pertaining to his post-service accomplishments and activities, the Board would be willing to reconsider the applicant's request based on fundamental fairness and clemency. 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 that 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-2024-03227 in Executive Session on 4 Sep 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, w/atchs, dated 3 Sep 2024
- Exhibit B: Documentary Evidence, including relevant excerpts from official records
- Exhibit C: Email, SAF/MRBC (Receipt Acknowledgment, Post-Service Request with link to Clemency and Fundamental Fairness Guidance and FBI Bulletin Background Check procedures), dated 27 Sep 24

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- Exhibit D: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 21 Nov 24
- Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 10 May 25
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Jun 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.

12/9/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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