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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03355

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

His previous discharge characterization was determined by court-martial for possession of marijuana, which has now been proven to be a coping mechanism for self-treatment of the initial onset of post-traumatic stress disorder (PTSD). His character was of high standards during his enlistment, and he conducted himself according to Air Force core values. He selflessly volunteered for deployment and all assignments. He humbly requests the Board change his discharge based on these factors.

In support of his request for a discharge upgrade, the applicant provides a Department of Veterans Affairs (DVA) decision letter and rating decision dated 16 May 24 showing an evaluation for his PTSD was increased from 30 to 70 percent, effective 4 Apr 23.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 25 Apr 08, according to Special Court-Martial Order Number Work-Product, the applicant pled not guilty and was found guilty of one charge and one specification of wrongfully using marijuana between on or about 1 Mar 06 and 30 Apr 06. He pled not guilty and was found not guilty in a second specification of wrongfully possessing some amount of marijuana. The applicant was sentenced to confinement for 14 days, forfeiture of \$898.00 per month for three months, and reduction to the grade of airman basic.

On 8 May 08, 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 5.54, for Misconduct-Drug Abuse.

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On 15 May 08, the discharge authority directed the applicant be discharged for Misconduct-Drug Abuse, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 2 Jun 08, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with 4 years, 1 month, and 28 days of total active service.

On 12 Mar 09, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 26 Aug 10, 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 determined the applicant's discharge should remain unchanged.

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

POST-SERVICE INFORMATION

On 19 Nov 24, the Board staff sent the applicant a request (Exhibit C) for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI); however, he did not respond.

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 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 19 Nov 24, the Board staff provided the applicant a copy of the liberal consideration and clemency 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 finds insufficient evidence to support the applicant's request for an upgrade of his discharge and recommends denying the application.

The applicant check marked PTSD on his application, but there is insufficient evidence that he met the diagnostic criteria for PTSD during his time in the military or at discharge. He was evaluated numerous times during his service and was found not to have any psychiatric symptoms. He was assessed on 9 Feb 08, 22 Apr 08, 28 Apr 08, and 13 May 08 and did not report any mental health symptoms during these encounters. He stated he felt fine, with the examiner noting no depression or anxiety. After his military service, the applicant presented for a DVA Compensation and Pension (C&P) examination, and while listing medical issues, he did not request evaluation for any mental health-related symptoms. It was not until Apr 23 that the applicant was diagnosed and service-connected for PTSD by the DVA. Again, there is insufficient evidence to suggest he met the Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria for PTSD during his service or at discharge.

It should be noted that the DVA 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 of time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given medical condition may vary (improve or worsen) over the lifetime of the veteran. There is evidence that the applicant's mental health condition worsened over time after his military separation.

After considering the entire record and the applicant's contentions, there is insufficient evidence to suggest he had any mental health condition that would mitigate his misconduct or excuse his behavior. A review of the available records finds no error or injustice with the applicant's discharge and insufficient evidence has been presented to support the applicant's request. Liberal consideration is applied to the applicant's petition due to the contention of a mental health condition. The following are responses to the four questions from the Kurta Memo 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 PTSD on his application.
2. Did the condition exist or experience occur during military service? The applicant was never diagnosed with PTSD or any other mental health diagnosis while in the military or at discharge.
3. Does the condition or experience excuse or mitigate the discharge? There is insufficient evidence that the applicant met the diagnostic criteria for PTSD during his time in the military or at discharge. He was evaluated numerous times during his service and was found not to have any psychiatric symptoms. He was assessed on 9 Feb 08, 22 Apr 08, 28 Apr 08, and 13 May 08 and did not report any mental health symptoms during these encounters. After his military service, he presented for a DVA C&P examination and while listing medical issues, he did not request an evaluation for any mental health-related symptoms. It was not until Apr 23 that the applicant was diagnosed with PTSD by the DVA and service connected. Again, there is insufficient evidence to suggest he met the DSM criteria for PTSD during his service or at discharge.
4. Does the condition or experience outweigh the discharge? Since the applicant's mental health condition does not excuse or mitigate the 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 staff sent a copy of the advisory opinion to the applicant on 8 May 25 for comment (Exhibit E) but received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed. Statutory time limits are liberally waived when deciding cases in which liberal consideration is a basis for relief. Furthermore, given the requirement for passage of time, all discharge upgrade requests based upon fundamental fairness are technically untimely. However, it would be illogical to deny such an 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 the victim of an error or injustice. While the Board finds no error in the original discharge process and notes the AFRBA Psychological Advisor recommends denial, the Board finds sufficient evidence to warrant relief. The Board applied liberal consideration to the applicant's request due to his contention of PTSD. The Board notes the applicant has a good service record and was discharged for one time marijuana use. The Board finds the applicant's personal testimony and his DVA service connection for his PTSD sufficient to find the applicant suffered from undiagnosed PTSD while in service and his mental health condition was a nexus to his discharge. Accordingly, the Board finds the applicant's PTSD outweighs his original discharge. The Board also notes the Wilkie Memo states the Board should consider the length of time since the misconduct. In this respect, it has been more than 17 years since the applicant's discharge. The Board finds the applicant's general discharge no longer serves a useful purpose and recommends his discharge be upgraded to honorable and his narrative reason for separation and separation code be changed to reflect "Secretarial Authority." Therefore, the Board recommends correcting the applicant's records.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to the applicant be corrected to show on 2 Jun 08, he was discharged with service characterized as honorable, narrative reason for separation of "Secretarial Authority" and separation code JFF (Secretarial Authority).

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-2024-03355 in Executive Session on 11 Sep 25:

Work-Product, Panel Chair
 Work-Product, Panel Member
 Work-Product, Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 30 Sep 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration-Clemency Guidance), dated 19 Nov 24.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 1 May 25
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 8 May 25.

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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.

10/29/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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