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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-04288

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His "Uncharacterized" Entry Level Separation (ELS) be upgraded to honorable.

APPLICANT'S CONTENTIONS

This correction will align with his discharge status with the service-connected disability rating and other records, such as his veterans' health eligibility and United States Department of Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH) program case manager records, both of which currently reflect an honorable status. The upgrade is necessary to ensure he can qualify for veteran's preference benefits and related opportunities. While he obtained a service-connected disability rating and is approved for HUD-VASH housing assistance, the existing discharge characterization disqualifies him as a protected veteran under Florida Department of Veterans Affairs (DVA) guidelines. Correcting this status will rightfully acknowledge his service and ensure access to the benefits and preferences he has earned.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 9 Aug 99, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*, paragraph 5.11.1 for conditions that interfere with military service, under mental disorders. The specific reason for the action was he was diagnosed as having a mental disorder as contained in the diagnostic and statistical manual of mental disorders (DSM-IV). It was determined the condition interfered with duty performance and conduct and was severe enough, his ability to function was significantly impaired.

On 11 Aug 99, the discharge authority directed the applicant be discharged for conditions that interfere with military service, under mental disorders, with an uncharacterized ELS.

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On 12 Aug 99, the DD Form 214, *Certificate of Release or Discharge from Active Duty*, indicates the applicant received an uncharacterized ELS. His narrative reason for separation is “Personality Disorder” and he was credited with 29 days of total active service.

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

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 a copy of the liberal consideration guidance (Exhibit D).

AFI 36-3208, dated 14 Oct 94, describes the authorized service characterizations that were applicable at the time of the applicant's separation.

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.

Entry Level Separation. Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or
- The Secretary of the Air Force (SAF) determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

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 from a psychological perspective. The applicant is petitioning the Board to change the characterization of his service from an uncharacterized ELS to an honorable discharge. The applicant marked "other mental health" and "DADT" (don't ask, don't tell) on the application.

The applicant contends he has an uncharacterized/under honorable conditions discharge. While his discharge was uncharacterized, it was not under honorable conditions. His separation was based on a mental health condition which interfered with his duty performance and conduct and was severe enough, his ability to function in the military was significantly impaired. This was based on a mental health recommendation dated 2 Aug 99, which recommended an ELS.

The applicant appears to be concerned the uncharacterized discharge reflects poorly on his character and/or service and should align with his DVA determination. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, he had a mental health condition which was not within enlistment standards.

The applicant is requesting an upgrade of his discharge to honorable. This request cannot be supported. This is because he was discharged under ELS and was furnished with an uncharacterized character of service for serving less than 180 days of continuous active military service. This uncharacterized service is consistent with and in accordance with AFI 36-3208, the regulation he was discharged under, and the current regulation, Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*. There is no evidence of an error or injustice with his discharge service characterization.

It should be noted the DVA has a process where they will review a veteran's character of discharge and determine if their service was "honorable for DVA purposes." While the applicant appears to have had his service characterized as honorable for DVA purposes (benefits and services), this designation does not apply to his DD Form 214.

The applicant was denied a service connection for all diagnosed mental health disorders based on his mental health compensation and pension (C&P) examination in 2015.

While the applicant denied prior use of illegal drugs before his enlistment on his SF-86, *Questionnaire for National Security Positions*, on 1 Jul 99, his C&P encounter on 8 Apr 15 reported previous illegal usage of cocaine and hallucinogens prior to entering the military.

While the applicant marked DADT on his application, there is no evidence this policy or his sexual orientation had a factor in his discharge.

The applicant's DD Form 214 currently lists the narrative reason for separation as personality disorder. There is no evidence the applicant was ever diagnosed with a personality disorder during service. This appeared to be an administrative error. Personality disorders and adjustment disorders are both considered to be unsuiting mental health conditions, resulting in an administrative discharge. This was most likely the reason for the error, as these conditions share the same classification. To correct this identifiable error, the Psychological Advisor recommends the Board change the applicant's narrative reason to "Condition Not a Disability." This narrative reason is the appropriate and correct reason for the applicant's actual separation from service. It is an acceptable narrative reason per liberal consideration guidance, Kurta Memorandum #17, and ensures the applicant's privacy.

After considering the entire record and contentions, there is insufficient evidence to suggest the applicant had any mental health condition which would mitigate his ELS. 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 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 marked "other mental health" and "DADT" on his application.

2. Did the condition exist or experience occur during military service?
The applicant was discharged with an uncharacterized ELS after 29 days of service based on a mental health recommendation dated 2 Aug 99. He was diagnosed with adjustment disorder with depressed mood and polysubstance dependence (alcohol, cocaine, and hallucinogens). It was determined he did not have a medically disqualifying condition, and his disorder significantly impaired his ability to function in the military.

3. Does the condition or experience excuse or mitigate the discharge?
The Psychological Advisor concludes the applicant does not have any mental health conditions which would mitigate or excuse his ELS. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, he had a mental health condition which was not within enlistment standards.

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 C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 29 Jan 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).

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. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence substantiates the applicant’s contentions in part. Even though the applicant was diagnosed with an unsuited mental health disorder during service, adjustment disorder, there is no evidence the applicant was ever diagnosed with a personality disorder during service and due to possible adverse negative consequences of the applicant’s narrative reason, the Board recognizes the potential stigma of “Personality Disorder” listed on his DD Form 214, which is sufficient to warrant a change to his records. Therefore, the Board recommends correcting the applicant’s records as indicated below. However, for the remainder of the applicant’s request, the evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant’s request. Airmen are given entry level separation with uncharacterized service when they fail to complete a minimum of 180 days of continuous active military service and the applicant only served 29 days of active service, therefore, the type of separation and character of service are correct as indicated on his DD Form 214. The SAF can determine honorable service is warranted if unusual circumstances of personal conduct and performance of military duty is present; however, the Board finds no evidence to suggest such and therefore, recommends against correcting the applicant’s records for this request.



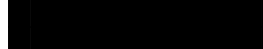
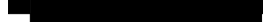
RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 12 Aug 99, he was discharged with a separation code and corresponding narrative reason for separation of JFV (Condition, Not A Disability).

However, regarding the remainder of the applicant’s request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2024-04288 in Executive Session on 19 Mar 25 and 5 May 25:

-  Panel Chair
-  Panel Member
-  Panel Member
-  Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 13 Dec 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.

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Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 28 Jan 25.

Exhibit D: Letter, SAF/MRBC, w/atchs (Liberal Consideration Guidance), dated 29 Jan 25.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Jan 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.

6/2/2025

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Board Operations Manager, AFBCMR

Signed by: USAF

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