

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00161

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

1. His general under honorable conditions discharge be upgraded to honorable.
  2. His narrative reason for separation be changed from misconduct to a medical discharge.
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APPLICANT CONTENDS THAT:

He was not properly evaluated prior to his discharge. His medical records show that he was trying to get the proper help.

The applicant provides no supporting documentation.

The applicant's complete submission is at Exhibit A.

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 30 August 2005. Data extracted from the Air Force advisories show the applicant was notified of his commander's intent to discharge him from the Air Force for misconduct: minor disciplinary infractions and for conditions that interfere with military service: Mental Disorder - Adjustment Disorders and Conditions that interfere with military service mental disorders other disorders. Specifically, the applicant received two Article 15's and a Letter of Reprimand. On 4 December 2008, the staff judge advocate found the case legally sufficient. The applicant was separated with a general, under honorable conditions discharge. He was credited with 1 year, 3 months and 27 days of active duty service.

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AIR FORCE EVALUATION:

AFPC/DPSOS recommends denial. According to AFI 36-3208 paragraph 1.18.2, a general discharge is appropriate when significant negative aspects of an airman's conduct or performance of duty outweighs positive aspects of the airman's military record. The applicant's misconduct in this case clearly outweighs the positive aspects of his service. The

commander stated before recommending discharge that every effort was made by the members supervision to rehabilitate him. The record shows the applicant was counseled on numerous occasions for his behavior and was afforded an opportunity to overcome his deficiencies. The applicant's incidents of misconduct disrupted good order, discipline and morale within the military community; hence the discharge was appropriate.

The discharge, to include the character of service, was consistent with the procedural and substantive requirements of the discharge instruction and was within the discretion of the discharge authority. The applicant did not provide any evidence of an error or injustice that occurred in the discharge processing.

The complete AFPC/DPSOS evaluation is at Exhibit C.

The BCMR Medical Consultant recommends denial. The record indicates that the applicant received periodic evaluations and treatment through Life Skills Support Center (mental health clinic). None of the evidence reflects the existence of a disqualifying mental disorder that should have been referred to a Medical Evaluation Board (MEB) and processing through the Disability Evaluation System (DES). The applicant's primary mental diagnosis was Adjustment Disorder, a condition not considered a disability in accordance with AFI 36-3212 and DoD Instructions 1332.38 Physical Disability Evaluation, which when it significantly interferes with military service, may result in involuntary administrative discharge.

The applicant has been awarded disability compensation by the Department of Veterans Affairs (DVA) for a condition found service connected, however, this action does not invalidate the clinical assessments of competent mental health authorities at the time of his military service; particularly in the context of the misconduct. Regardless of the name assigned, many mental conditions may present with overlapping symptoms at a given time. These even vary through further observation and treatment over an extended prior of time or after evaluation by different health care providers. The applicant's treatment records do not disclose duty-limiting compensable mental disorders that should have been the cause for career termination.

There is no indication that any diagnosed disorder obstructed the applicant's ability to distinguish right from wrong or rendered him incompetent in thought processes and decision making. Even if the applicant's reason for separation is changed to an Adjustment Disorder, the established character of service could remain unchanged. If the misconduct is believed to be the direct result of the underlying mental disorder, then one can also conceive the acts of conduct could be mitigated. The consultant opines the applicants assignment to Security Forces likely mandated a higher standard of conduct; hence the possible perception of harshness in the decision to administratively discharge him for misconduct.

The hypothetical scenario that the applicant concurrently received an MEB and was found unfit by a physical Evaluation Board for Anxiety Disorder or other compensable mental disorder, he would be the subject of a dual-action review of his case by the Secretary of the Air Force Personnel Council which would decide what would be the most appropriate basis for separation, administration versus medical. Based on the evidence presented, it is likely the previously approved administrative discharge would have been executed.

The applicant is advised that the military DES, operating under Title 10 USC only offers compensation for the conditions that cause career termination, and then only to the degree of impairment present at the snapshot in time of final disposition. Neither Post-Traumatic Stress Disorder nor an Anxiety Disorder was the cause for terminating the applicant's career. The DVA operates under a different set of laws and is authorized to offer compensation for any medical condition for which it establishes a nexus with military service without regard for impact on a service member's fitness to serve.

The applicant has not met the burden of proof of an error that warrants the desired change of the record.

The BCMR Medical Consultant's complete evaluation is at Exhibit D

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant contends he did not charge into the commander's office or attempt to attack anyone. He simply tried to leave to cool off. Additionally, he takes issue with the reference to the training course; he was told by a sergeant that he could take leave and the course would be rescheduled. Otherwise, the advisories are correct

The applicant's complete response is at Exhibit G.

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. We carefully considered the available evidence of record; however, we found no indication the actions taken to effect the applicant's discharge was improper or contrary to the provisions of the governing instructions. Therefore we agree with the

opinion and recommendation of the BCMR Medical Consultant and the Air Force office of primary responsibility and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. In the interest of justice, we considered upgrading the discharge based on clemency; however, in the absence of evidence by the applicant attesting to a successful post-service adjustment in the years since his separation, we are not inclined to extend clemency at this time. In the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered BCMR Docket Number BC-2012-00161 in Executive Session on 14 November 2012, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dtd 13 Jan 12.
- Exhibit B. Applicant's Master Personnel Record.
- Exhibit C. Letter, AFPC/DPSOS, dtd 26 Apr 12.
- Exhibit D. Letter, BCMR Medical Consultant, dtd 10 Oct 12.
- Exhibit E. Letter, SAF/MRBR, dtd 10 Oct 12.
- Exhibit F. Letter, SAF/MRBC, dtd 10 Oct 12.

Panel Chair