



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02679

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Her general (under honorable conditions) discharge be upgraded to honorable.
2. The "drug abuse" remark be removed from her narrative reason for separation.

APPLICANT'S CONTENTIONS

This correction to her record could do wonders for her current life and her family's. She is a mother of three, a nurse, and soon to be wife. During the time this was happening, she was being abused physically, mentally, and verbally. She had no support from her then husband and was diagnosed with post traumatic stress disorder (PTSD) from the abuse. She lived and made choices on the account of him due to fear. The upgrade would support her going back to further her education and keep her family out of debt. She has grown, matured, fully understands her past, and now makes better choices. Her delay was due to fear and disbelief in herself. She has seen so much change and grown in herself, so she decided to try. She has never been in trouble with the law, nor has she ever been involved or accused of any drug usage.

In support of her request for a discharge upgrade, the applicant provides a post service certificate of achievement, employment information, and a letter of support.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 6 Aug 09, 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 drug abuse. The specific reasons for the action were:

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[REDACTED]

a. On 16 Jul 09, an AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for wrongful use and distribution of marijuana between on or about 24 Apr 09 and on or about 26 Apr 09. The applicant received a reduction to the grade of airman basic (E-1) and a reprimand.

Although not used as a basis for discharge, the following information was used to determine her characterization:

a. On 17 Apr 09, a Letter of Counseling (LOC) was issued for failure to report to squadron physical training on time, on or about 17 Apr 09.

b. On 7 May 09, a Letter of Reprimand (LOR) was issued for failing to satisfactorily complete her education reading class between on or about 6 Apr 09 and on or about 30 Apr 09.

c. On 5 Jun 09, an LOR was issued for failing to go to her appointed place of duty on or about 3 Jun 09.

d. On 23 Jun 09, an LOR was issued for failing a dorm inspection for the second time on or about 12 Jun 09.

On 24 Aug 09, the discharge authority directed the applicant be discharged for drug abuse, with a general (under honorable conditions) service characterization.

On 27 Aug 09, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct (Drug Abuse)" and she was credited with one year and eight 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 12 Dec 24, 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, she 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.

[REDACTED]

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 12 Dec 24, the Board staff provided the applicant 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.

[REDACTED]

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 has been presented to support the applicant's request for an upgrade of her discharge from a psychological perspective. There is insufficient evidence the applicant had any mental health condition at the time of her military service or at discharge. The applicant was evaluated at discharge as part of her separation and was found not to have any mental health symptoms. During her military service, there is no evidence she was diagnosed with a mental health condition. Additionally, the applicant is not service-connected for any mental health condition, including PTSD.

The applicant contends she was abused physically, mentally, and verbally during the time of her being charged with wrongful use and distribution of marijuana, and she was diagnosed with PTSD from the abuse. There is insufficient evidence to support this contention. A mental health encounter on 16 Mar 17 indicates she had been previously diagnosed with PTSD, but this diagnosis was related to childhood sexual trauma, not her contention of abuse while in the military.

Additionally, the applicant appears inconsistent in her reporting. The applicant's response at the time of her NJP on 14 Jul 09, was she was not guilty of the allegations and did not commit the offenses of wrongful use and distribution of marijuana. Currently, on her application, she mentions learning from past mistakes and choices, seemingly alluded to and admitting past drug use/distribution and other misconduct while in the military. Also, on her application, she stated, "I fully understand my past and now make better choices... I have never been in trouble with the law nor have ever been involved/accused of any drug usage." On a mental health encounter dated 16 Mar 17, the provider noted she disclosed smoking two marijuana joints per day, which indicates she has been involved in drug use.

The Psychological Advisor concludes the applicant did not have any mental health condition which would mitigate or excuse her misconduct of wrongful use and distribution of marijuana. Even if the applicant had a mental health condition, it would not excuse the substantive degree of her misconduct. While using drugs to self-medicate symptoms of PTSD can be part of the sequelae of behaviors of PTSD, the distribution of drugs is not. Distribution of drugs is considered a willful, purposeful, and conscious act which has no nexus with PTSD or her contention of abuse.

After considering the entire record and contentions, there is insufficient evidence to suggest the applicant had any mental health condition which would mitigate her misconduct. A review of the

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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: Liberal consideration is applied to the applicant's petition due to the contention of a mental health condition. 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 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" and "other mental health" on her application. She reported she was diagnosed with PTSD from abuse.

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

There is insufficient evidence the applicant had any mental health condition at the time of her military service or at discharge. The applicant was evaluated at discharge as part of her separation and was found not to have any mental health symptoms. During her military service, there is no evidence she was diagnosed with a mental health condition. Additionally, the applicant is not service-connected for any mental health condition, including PTSD.

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

The Psychological Advisor concludes the applicant did not have any mental health condition which would mitigate or excuse her misconduct of wrongful use and distribution of marijuana. Even if the applicant had a mental health condition of PTSD it would not excuse the substantive degree of her misconduct. While using drugs to self-medicate symptoms of PTSD can be part of the sequelae of behaviors of PTSD, the distribution of drugs is not. Distribution of drugs is considered a willful, purposeful, and conscious act which has no nexus with PTSD or her contention of abuse.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate her 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 sent a copy of the advisory opinion to the applicant on 16 Jan 25 for comment (Exhibit E) but has received no response.

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. The applicant did not have any mental health condition which would mitigate or excuse her misconduct. There is no evidence the applicant had any mental health condition during service or at discharge. Furthermore, the applicant is not service-connected for any mental health condition, including PTSD. Even if the applicant had a PTSD diagnosis, distribution of drugs is a premeditated, willful, and conscious act which has no nexus to PTSD. While using drugs to self-medicate can be a behavior of PTSD, the distribution of drugs is not. Therefore, her contended mental health condition does not excuse or mitigate her discharge. The applicant has provided no evidence which would lead the Board to believe her 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 she has made a successful post-service transition. The evidence she provides lacks references that demonstrate her 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 her efforts in the community have impacted others. Should the applicant provide documentation pertaining to her post-service accomplishments and activities, this Board would be willing to review the materials for possible reconsideration of her request based on fundamental fairness.

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 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

[REDACTED]

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-2024-02679 in Executive Session on 21 May 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 25 Jun 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 12 Dec 24.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 15 Jan 25.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 16 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.

6/4/2025

X [REDACTED]

[REDACTED]
Board Operations Manager, AFBCMR
Signed by: USAF