

SUMMARY:

The applicant was discharged on 05 October 2012 in accordance with HQ AFDW SPCMO #2, 20111101, with a Bad Conduct discharge for Court Martial (Other). The applicant appealed for an upgrade of their discharge characterization.

The applicant was discharged on 05 October 2012 with a Bad Conduct Discharge after being convicted of a drug related offense during a Special Court-Martial.

The applicant requested the board be completed based on a records only review. The Board was conducted on 28 March 2024. The applicant was not represented by counsel.

The attached examiner's brief (provided to applicant only), extracted from available service records, contains pertinent data regarding the circumstances and character of the applicant's military service.

DISCUSSION: The Discharge Review Board (DRB), under its responsibility to examine the propriety and equity of an applicant's discharge, is authorized to change the characterization of service and the narrative reason for discharge if such changes are warranted. If applicable, the Board can also change the applicant's reentry code. In reviewing discharges, the board presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to rebut the presumption, to include evidence submitted by the applicant. The Board completed a thorough review of the circumstances that led to the discharge and the discharge process to determine if the discharge met the pertinent standards of equity and propriety.

The applicant's record of service included a Special Court Martial finding of guilty for wrongful distribution and use of a schedule I controlled substance on multiple occasions.

The documentary evidence the Board considered as part of the review includes, but is not limited to the DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*, and any additional documentation submitted by applicant and/or counsel; the applicant's personnel file from the Automated Records Management System (ARMS); and the DRB Brief detailing the applicant's service information and a summary of the case.

The applicant requested an upgrade to her discharge characterization due to her experienced PTSD and anxiety stemming from the court martial process and discharge. She asserted that she got involved with the wrong people and made bad decisions leading to her discharge. The applicant added that she has had difficulty applying to jobs and had no further legal issues since discharge.

The DRB determined that the applicant presented no evidence of impropriety or inequity surrounding the discharge. Nor do the applicant's statements of post-service hardships warrant an upgrade to the characterization. Rather than showing an impropriety or inequity, these hardships are foreseeable consequences of the applicant's decision to use and distribute schedule I drugs. While the DRB was pleased to hear that the applicant has had no further legal infractions since discharge, refraining from criminal activity is a minimum standard for citizens and does not mitigate the severity of the crimes which led to the applicant's discharge.

LIBERAL CONSIDERATION:

Due to a claim a mental health issue, the Board considered the case based on the liberal consideration (LC) standards required by guidance from the Office of the Under Secretary of Defense for Personnel and Readiness and 10 USC §1553. The Board included a member who is a physician, clinical psychologist, psychiatrist or social worker with training on mental health issues connected with post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) or other trauma. Specifically, the Board reviewed the four questions the Under Secretary of Defense provided that boards should consider when weighing evidence in requests for modification of discharges due in whole or in part to mental health conditions, including PTSD; TBI; sexual assault, and sexual harassment. The Board considered the following:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The applicant checked the boxes for “PTSD” and “other mental health” on the application. The applicant contended “I believe the board should grant the requested change because after more than 11 years I still have PTSD and terrible anxiety from the whole situation. This all started with I was 19. I got involved with the wrong people and made really bad decisions which still haunt me until this day. I have tried to move on with my life but it has been hard when applying to jobs.”

2. Did that condition exist/experience occur during military service?

There is no evidence the applicant sought or received any mental health treatment during her time in service. There is no evidence the applicant exhibited any clinically significant features of PTSD, anxiety, or any other mental health condition, during her time in service. There is no evidence or records to substantiate the applicant’s contention that she developed PTSD or any other mental health condition during her time in service.

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

There is no evidence the applicant sought or received any mental health treatment during her time in service. There is no evidence the applicant exhibited any clinically significant features of PTSD, anxiety, or any other mental health condition, during her time in service. There is no evidence or records to substantiate the applicant’s contention that she developed PTSD or any other mental health condition during her time in service. There is no evidence a mental health condition caused or mitigated the misconduct(s) that led to the applicant’s discharge. The applicant non-specifically contended she has PTSD and anxiety from situation regarding her misconduct and discharge proceedings. While military legal proceedings can be stressful, they do not constitute a mental health condition that mitigates the misconduct that initiated the legal proceedings. There is no evidence a mental health condition caused or mitigated the misconduct(s) that led to the applicant’s discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant’s discharge is not mitigated, the applicant’s discharge is also not outweighed.

Additionally, the Board considered the factors laid out in the attachment to the Under Secretary of Defense memorandum, *Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations*, dated 25 June 2018, known as the “Wilkie Memo.” The Board considered the factors listed in paragraphs (6)(a)-(6)(l) and (7)(a)-(7)(r) of this memorandum and found no evidence of inequity or impropriety.

FINDING: The DRB voted unanimously to **deny** the applicant’s request to upgrade her discharge characterization. The DRB also voted to deny a change the discharge narrative reason or the reentry code.

Should the applicant wish to appeal this decision, the applicant must request a personal appearance before this Board before applying for relief to the Air Force Board for Correction of Military Records (AFBCMR). In accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*, all applicants before the AFBCMR must first exhaust available administrative avenues of relief before applying to the AFBCMR, otherwise their AFBCMR case will be administratively closed until such time that the applicant avails themselves of the available avenue of relief. Therefore, should the applicant wish to appeal this decision, they must first exercise their right to make a personal appearance before the AFDRB.

CONCLUSION: After a thorough review of the available evidence, to include the Applicant's issues, summary of service, service/medical record entries, and discharge process, the Board found the discharge was proper and equitable. Therefore, the awarded characterization of service shall remain "Bad Conduct," the narrative reason for separation shall remain "Court Martial (Other)," and the reentry code shall remain "2L." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 2 April 2024. If desired, the applicant can request a list of the board members and their votes by writing to:

Air Force Review Boards Agency
Attn: Discharge Review Board
3351 Celmers Lane
Joint Base Andrews, NAF Washington, MD 20762-6602
Instructions on how to appeal an AFDRB decision can be found at
<https://afrbportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)

