

**SUMMARY:** Pursuant to an Air Force-wide class action lawsuit, *Johnson et al. v. Kendall*, Case No. 3:21-cv-01214, settled on 11 June 2024, the Air Force Discharge Review Board (AFDRB) reconsidered the Class Member's case file under the authority provided in 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." to upgrade discharges to ensure fundamental fairness. As part of the Air Force-wide class action lawsuit, the Class Member (Applicant) for the referenced case number was identified as part of the Automatic Reconsideration Group. The AFDRB reviewed the record per the parameters of the settlement agreement as noted above.

If no relief was merited under the Wilkie Memo, the AFDRB then also reviewed the applicant's case to ensure appropriate application of liberal consideration where there was a diagnosis of Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), or other mental health conditions, or experiences of sexual assault or sexual harassment, or records documenting that one or more symptoms of PTSD, TBI, other mental health conditions, or experiences of sexual assault or sexual harassment existed or occurred during military service, under the authority provided in the Under Secretary of Defense memorandum, Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment, dated 25 August 2017, known as the "Kurta Memo" standard of liberal consideration.

The Applicant was discharged on 21 January 2020 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with a Character of Service of Under Honorable Conditions (General), a Narrative Reason of Misconduct (Serious Offense), and a Reentry Code of 2B, as reflected on the DD 214, *Certificate of Release or Discharge from Active Duty OR Certificate of Uniformed Service*.

As an Automatic Reconsideration Group member, the AFDRB sent notice to both the service member's last known mailing address and e-mail address on file, which stated that 1) the AFDRB would reconsider the Applicant's case without a need for further response from the member; 2) if the member wished to supplement their application, they should submit supplemental evidence within 60 days of the notice; 3) submitting medical evidence in support of the application would benefit the member; 4) provided examples of the types of evidence that may be relevant; and 5) included information regarding available resources to assist members in supplementing their applications.

**COUNSEL:** The Applicant was not represented by Counsel.

**DISCUSSION:** The AFDRB, 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, including evidence submitted by the Applicant. The AFDRB thoroughly reviewed 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 documentary evidence the AFDRB 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 AFDRB Brief detailing the Applicant's service information and a summary of the case to include the AFDRB's medical opinion which included a narrative explanation as to the following: a) whether the available record reasonably supports that a mental health

condition existed at the time of the Applicant's military service; b) whether these conditions were present at the time of the misconduct; c) whether these conditions were mitigating for the misconduct; d) whether the Applicant received mental health and/or medical evaluations before their administrative separation. In accordance with DoDI 1332.28, *Discharge Review Board (DRB) Procedures and Standards*, the AFDRB previously provided a copy of the examiner's brief, extracted from available service records, containing pertinent data regarding the circumstances and character of the military service to the member after the Board adjudicated the original AFDRB case.

In accordance with the terms of the Settlement Agreement, the Board reconsidered the Applicant's case based on liberal consideration standards. Specifically, the Board was required to include a member who was a clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) or other trauma as specified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, if the former service member, while serving on active duty, was deployed in support of a contingency operation and who, at any time after such deployment, was diagnosed by a physician, clinical psychologist or psychiatrist as experiencing PTSD or TBI as a consequence of that deployment. In this former member claims that the PTSD or TBI is based in whole or in part on sexual trauma, intimate partner violence or spousal abuse, the Board was required to seek advice and counsel in the review from a psychiatrist, psychologist, or social worker with training on mental health issues associated with PTSD or TBI or other trauma as specified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. The Board was required to review the four questions under the Under Secretary of Defense Memorandum, *Clarifying Guidance to Military Discharge Review Boards and Boards of Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment*, dated 25 August 2017, and commonly referred to as the "Kurta Memo" 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 AFDRB reviewed the military records and new evidence as part of the Settlement Agreement. The Applicant did not submit new evidence.

**FINDING:** The Board was conducted on 3 July 2025.

The Board deliberated and determined the Applicant's package did not merit relief. 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.

Therefore, the Board was required to review the four questions under the Under Secretary of Defense Memorandum, *Clarifying Guidance to Military Discharge Review Boards and Boards of Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment*, dated 25 August 2017, and commonly referred to as the "Kurta Memo" 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. Also, on reconsideration, the Board considered the presence of a mental health condition in itself does not warrant an upgrade.

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge? Yes. *On the DD293 form the Applicant contended, "It is my belief that the discharge I received was improper and inequitable based on my accolades during service, and the circumstances leading to my discharge. I believe I was not discharged for misconduct as stated on my current DD-214, but rather voluntarily and by request during a time of extreme hardship and mental anguish, now diagnosed as PTSD. Furthermore, I believe that, had I been properly diagnosed while serving, I would have been granted an honorable discharge with medical reasoning." Additionally, the Applicant marked PTSD as being an issue/condition related to his request.*

2. Did that condition exist/experience occur during military service? Yes. *A review of available records revealed the Applicant had two distinct episodes of mental health treatment during his time in service. The first occurred in February 2018 when the Applicant presented to the PCM with significant stress, anxiety, and feelings of 'possible panic attacks'. The PCM referred the Applicant to BHOP. The BHOP provider noted the Applicant's difficulties with tech school instructors and NCOs and diagnosed him with Anxiety Disorder, Unspecified. Less than a week later, the Applicant followed up with the PCM and reported the BHOP techniques and the medication prescribed by the PCM were working well and symptoms were noticeably reduced. The Applicant's second episode of mental health treatment began in August 2019. At that time, the Applicant presented to BHOP with depression and anxiety for the past month, which began when the Applicant received an Article 15 that he felt was unjustified. The BHOP provider referred the case to the Mental Health Clinic. The Applicant had an initial intake with the Mental Health clinic a week later with similar complaints/concerns. The Applicant agreed to initiate treatment and was diagnosed with Adjustment Disorder with Anxiety. Later that same month, the Applicant was directed to complete an Emergency CDE following his arrest for posting comments of self-harm and harm to others on social media. The CDE determined the Applicant was not an imminent risk to self or others and that the Applicant was agreeable with scheduling a follow-up once they were released. However, two days later the Applicant was placed in pre-trial confinement and transferred to a confinement facility at a different location where they remained for approximately two months. While the Applicant was in pretrial confinement, he was seen one time by a mental health provider in November who diagnosed him with Major Depressive Disorder and Panic Disorder. The Applicant continued his appointments in the Mental Health clinic in December 2019 after release from pre-trial confinement and court martial, with treatment focused on the Applicant's impending discharge and post-Air Force plans, with the provider's final diagnosis being Adjustment Disorder with mixed anxiety and depression.*

3. Does that condition or experience actually excuse or mitigate the discharge? No. *Regarding the Applicant's contention that PTSD was a condition related to their request, a review of all available records revealed no evidence that the Applicant was ever diagnosed with PTSD or exhibited significant clinical symptoms of PTSD during their time in service. Based on a review of records, the evidence revealed the Applicant received a service connected disability rating from the VA for PTSD. However, the diagnosis appears to be directly related to Applicant's experience while in pre-trial confinement. By the time the Applicant had been placed in pre-trial confinement, they had engaged in all the misconduct that ultimately led to their discharge. Therefore, the PTSD diagnosis could not excuse or mitigate the Applicant's misconduct and subsequent discharge. The Major Depressive Disorder and Anxiety, as well as Adjustment Disorder, diagnoses note symptoms either not related to or after the misconduct leading to the administrative discharge with no concerns noted by the CDE. Overall, the Board finds insufficient evidence that the Applicant's mental health condition caused or mitigated the misconduct which led to his discharge.*

4. Does that condition or experience outweigh the discharge? No. *The Board found insufficient evidence to conclude the Applicant's mental health conditions and experiences outweighed the discharge given the nature of the symptoms and the serious nature of misconduct.*

**CONCLUSION:** After thoroughly reviewing and reconsidering the Applicant's case including all available evidence, the member's contentions, summary of service, service/medical record entries, and discharge process, the Board concluded:

**The Character of Service:** The AFDRB voted unanimously to deny the Applicant's original request to upgrade their Discharge Characterization. Therefore, the Character of Service shall remain.

**Narrative Reason/SPD Code:** The AFDRB voted unanimously to deny the Applicant's original request to upgrade their Narrative Reason/SPD Code. Therefore, the Narrative Reason shall remain.

**Reentry Code:** The AFDRB voted unanimously to deny the Applicant's original request to upgrade their Reentry Code. Therefore, the Reentry Code shall remain.

The Board President approved the results of the AFDRB on 23 September 2025.

Should the Applicant wish to appeal this decision, he may request a personal appearance before this Board. An Applicant must be within 15 years of discharge. If the Applicant's discharge was more than 15 years ago, the Applicant may apply for relief to the Air Force Board for Correction of Military Records (AFBCMR). Instructions on how to appeal an AFDRB decision can be found at <https://afrba-portal.cce.af.mil/>.

The Applicant may request a list of the Board members and their votes. In addition, when the Applicant requests, the AFDRB will disclose the type of mental health professional providing the opinion, their licenses and certifications, and the identity of the mental health professional if their military pay grade is at or above the O-6 level, or its civilian equivalent by writing to:

Air Force Review Boards Agency  
Attn: Discharge Review Board – Reconsideration Case  
3351 Celmers Lane  
Joint Base Andrews, MD 20762-6435