

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT**CASE NUMBER****FD-2023-00155**

SUMMARY: The applicant was discharged on 17 October 2018 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Misconduct (Drug Abuse). The applicant appealed for an upgrade of her discharge characterization.

The applicant was represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 21 July 2023.

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 reenlistment eligibility 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 multiple Letters of Reprimand for alcohol related incidents.

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.

Through counsel, the applicant contended that per the Kurta, Hagel, and Wilke memos the Board must consider the applicant's severe post-traumatic stress disorder (PTSD) as a mitigating factor in her misconduct and subsequent discharge.

Upon review of the applicant's service record, the board was not able to find any documentation regarding the discharge. Since the board relies on the presumption of regularity, it concluded the discharge received by the applicant was appropriate. A review of the available evidence in the applicant's records revealed she had two separate alcohol related incidents in one year. The applicant was subsequently discharged for drug abuse.

LIBERAL CONSIDERATION:

Due to evidence of a mental health condition found in the applicant's medical record, 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, or psychiatrist. 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 post-traumatic

stress disorder (PTSD); Traumatic Brain Injury (TBI); sexual assault, and sexual harassment. The Board considered the following:

1. Did the veteran contend that a condition or experience may have excused or mitigated their misconduct or discharge?

The applicant checked the box for "PTSD" on the application. The applicant, through counsel, contended "Per the Kurta, Hagel, and Wilkie memoranda, when evaluating applications for discharge upgrades, the Board must consider [the applicant's] severe PTSD as mitigating the misconduct which caused her discharge."

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

A review of the applicant's records revealed she was command referred on three occasions to ADAPT. The applicant's records revealed she received mental health services during her time in service in the months leading up to her discharge. The applicant's records reflected she received the diagnosis, in service, of adjustment disorder.

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

There is no evidence of a mitigating nexus between the applicant's in service mental health condition and experiences and the misconduct that led to her discharge. A review of the applicant's records revealed she endorsed problematic and maladaptive alcohol use prior to her time in service and also in a review of the available post-service records. A review of the applicant's in service records revealed she denied problematic alcohol use during her time in service although she endorsed having bad judgement after consuming two drinks. The applicant sought supportive mental health services after she was notified of discharge due to her misconduct at which time she reported symptoms of anxiety, uncertainty for her future outside of the military, and bereavement related to the loss of her mother. The applicant was assessed for PTSD during her time in service and denied any impacts from her previous abusive relationship or deployments. A diagnosis, in and of itself does not mitigate misconduct; furthermore, there is no evidence or records the applicant received the diagnosis of PTSD during her time in service. Therefore, the DRB found no evidence of a mitigating nexus between the applicant's in service mental health condition and experiences and the misconduct that led to the applicant's discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated by a mental condition or experience, the 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 impropriety or inequity.

FINDING: The DRB voted to **deny** the applicant's request to upgrade her discharge characterization to Honorable. The DRB also voted unanimously to **deny** changing the discharge narrative reason and the reenlistment eligibility 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, the narrative reason for separation shall remain, and the reentry code shall remain. The Air Force DRB (AFDRB) results were approved by the board president on 26 July 2023. 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)

