

SUMMARY:

The applicant was discharged on 17 February 2022 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 his discharge characterization.

The applicant was not represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 21 September 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 a Court-Martial charge sheet. His misconduct included: on divers occasions, wrongfully used cocaine.

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 indicated that the PTSD diagnosis was not considered during the summary Court-Martial and subsequent discharge.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The applicant's mental health condition was reviewed during the discharge process. As evidenced by the record, the initial recommendation of discharge was an Under Other Than Honorable Conditions characterization. However, after the applicant's conditions were fully considered, it was determined that a General discharge was the most appropriate, given the totality of the circumstances.

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 have a condition or experience that may excuse or mitigate the discharge?

The applicant checked the box on the application for "PTSD". The applicant contended a change to his discharge is requested "due to no consideration of PTSD diagnosis during summary court martial and discharge selection."

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

A review of the applicant's in-service records revealed the applicant received the diagnoses, in-service, of anxiety disorder, depressive disorder, PTSD, alcohol use disorder, and substance use disorder.

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

The applicant contends there was "No consideration of his PTSD diagnosis" during his summary court martial and discharge process. A review of the applicant's records revealed that the applicant's in service mental health conditions were known and fully considered during his summary court martial and discharge process. The applicant's commander stated in a discharge memorandum "I consider his post-deployment PTSD symptoms and mental health diagnosis to be extenuating factors in the misconduct forming the basis for this discharge, and they are significant factors in my decision to grant him a General service characterization."

In considering this applicant's request for relief under the intent of liberal consideration, the intent of liberal consideration is to "correct the records of those who are victims of error or injustice attributable to their mental health condition and/or sexual assault." The Board does not dispute the applicant's in-service diagnosis of PTSD; there is evidence the applicant's mental health conditions and the impact that this condition may have on the misconduct that led to the applicant's discharge, were known and considered at the time of discharge by the separation authorities. The applicant's records revealed the applicant was using cocaine while deployed and upon return from deployment to avoid sleep and "sober up" in social settings and parties to care for his friends who were also intoxicated. In the applicant's response to discharge notification, the applicant acknowledges that his mental health conditions do not justify his misconduct and requested (and was granted) a General discharge. The applicant stated "I ask for a General discharge due to the fact my service has been honest and faithful but for my recent personal conduct post-deployment. I recognize what I did was significant and outweighs the positive aspects of my career. As such, I acknowledge my service, coupled with my conduct, meets the definition for a General service characterization. Please consider my overall duty performance and my formal diagnosis of Post-Traumatic Stress Disorder (PTSD) when finalizing my service characterization."

4. Does that condition or experience outweigh the discharge?

A review of the applicant's records revealed no errors or improprieties. The applicant's records revealed his mental health conditions were known and fully considered at the time of his discharge resulting in the applicant's request for a General discharge being granted at the time upon separation.

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 his discharge characterization, to change the discharge narrative reason, and to change 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 "General," the narrative reason for separation shall remain "Misconduct (Drug Abuse)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the board president on 26 September 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)

