

**SUMMARY:**

The applicant was discharged on 12 May 2009 with a Bad Conduct Discharge after being convicted of Drug Abuse during a Special Court-Martial. The applicant appealed for an upgrade of her 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 30 November 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 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 Order. Her misconduct included: On divers occasions, between on or about 1 May 2007 and on or about 30 may 2007, wrongfully use 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 requested an upgrade so that she may secure employment. She indicated that she had mental health issues while in service and they have become more severe after serving in the USAF (Battle of Baghdad, triage and First Responder Hurricane Katrina). The applicant claims she has been in and out of mental institutes for the past several years and is currently in Veterans' Mental Health Court. She stated that she's currently on medication for schizophrenia and depression. The applicant concluded that although she managed to receive her master's degree to help improve her life, she needs a discharge upgrade to help secure full-time employment as a Mental Health care worker.

Upon review of the applicant's Bad Conduct Discharge as adjudged by a Special Court-Martial, the DRB may change the punitive discharge to an administrative discharge for the purposes of clemency if warranted. However, the DRB reviewed the applicant's entire service record and considered her DRB application statement but found insufficient evidence to grant the applicant's request to grant her clemency. The Board found the negative aspects of her willful misconduct outweighed the positive aspects of her military service. The characterization of the discharge received by the applicant was deemed to be appropriate.

### **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 for "PTSD" and "other mental health" on the application. The applicant contended "I am requesting a discharge update to enhance my ability to secure meaningful employment. With a history of mental health issues that became more severe after serving in the USAF (Battle of Baghdad, triage and First Responder Hurricane Katrina) I have been in and out of mental institutes for the past several years and currently in Veterans Mental Health Court. I am currently on medication for schizophrenia and depression. I have managed to receive my Master's degree from OU to help improve my lot in life but I need a discharge upgrade to help secure full time employment as a Mental Health care worker helping people with mental issues that I can truly relate to."*

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

*Based on a review of the available records, 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, psychosis, or any other mental health condition, during her time in service. The applicant's enlisted performance reports (EPRs) revealed the applicant's in service duty performance was consistently above average and exceeded expectations.*

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

*A review of the applicant's DD214 revealed the applicant was discharged with a bad conduct service characterization from a special court-martial proceeding. She had five years, four months, and thirteen days' time in service. A review of the applicant's records revealed the applicant had a pattern of maladaptive substance use prior to service including marijuana use, a conviction for DUI, and a separate conviction for public intoxication. The applicant pled guilty at the special court-martial to unlawful cocaine use during her time in service. There is no evidence the applicant sought or received any mental health services during her time in service. Further, there is no evidence or records the applicant endorsed or exhibited any clinically significant evidence of PTSD, psychosis, or any other mental health condition during her time in service.*

*This Board acknowledges the significant decompensation in the applicant's mental health post-service as submitted by the applicant's timeline and testimony. The applicant did not submit any evidence or records during her time in service to substantiate her contention that her misconduct was caused by a mental health condition.*

*Based on the available evidence and records, the applicant's mental health condition has more likely than not developed post-service. Regarding the applicant's submission of VA statements from 2022, the VA, operating under a different set of laws than the military, is empowered to offer compensation for any medical or mental health condition with an established nexus to military service, without regard to its impact on a member's fitness to serve, the narrative reason for release from service, or the length of time*

*that has transpired since the date of discharge. The VA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given condition may improve or worsen over the life of the veteran. At the “snapshot in time” of the applicant’s service, 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 by a mental health condition, 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.

**FINDING:** The DRB voted unanimously to *deny* the applicant’s request to upgrade her 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 “Bad Conduct Discharge,” 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 Board president on 8 December 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)