

SUMMARY: The applicant was discharged on 28 November 2022 in accordance with Air Force Instruction 36-3211, *Military Separations*, with a General discharge for Misconduct (Drug Abuse). The applicant appealed for an upgrade of his discharge characterization, a change to the discharge narrative reason, and a change to the separation code.

The applicant was represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 26 October 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 reenry 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 an Article 15 for wrongful possession of testosterone enanthate and false official statements.

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 he used testosterone to self-medicate sexual dysfunction he was experiencing due to PTSD. He claimed he sought out testosterone outside normal military medical channels due to embarrassment and cost. Regarding the false official statements, the applicant claimed he panicked when questioned about the steroids and initially lied about them then later told the truth. The second false statement allegation, the applicant claimed was completely false. The applicant contended his drug use was a lapse of judgment and he otherwise had a stellar career and is deserving of an honorable discharge.

A review of the applicant's record revealed he turned in a mobility bag to the Logistics Readiness unit that contained two vials of testosterone and syringes. The drugs and paraphernalia were inside an Amazon shipping bag with the applicant's name and address on the shipping label. The unit notified the applicant's unit who in turn notified Security Forces. An investigation was initiated, and the applicant was command directed to a urinalysis which came back positive for testosterone. The applicant was interviewed, and he initially claimed he didn't know where the drugs came from, then later stated he bought them for a friend. When questioned by his commander he claimed he had a valid prescription from prior to joining the Air Force for the drugs. The command punished the applicant under Article 15, UCMJ and proceeded with discharge. The applicant's case was forwarded to Secretary of the Air Force Personnel Council for final decision and the board recommended he be discharged for misconduct.

LIBERAL CONSIDERATION:

Due to the applicant's contention of a mental health condition, 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's counsel contended "Petitioner did not demonstrate a pattern of poor behavior but rather a decision to self-medicate for symptoms relating to what was later diagnosed as PTSD and related sexual health symptoms."

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

There is evidence the applicant sought and received mental health services during his time in service after he came under investigation for unauthorized use of testosterone. The applicant's records revealed he sought mental health services for symptoms of anxiety and flashbacks related to his experiences while deployed in the Army.

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

The applicant contended he received a diagnosis of PTSD related to his deployed experiences in the Army. The board determined the applicant's condition of PTSD existed prior to service (EPTS) and there is no evidence of service aggravation beyond the natural progression of the illness during his time in the Air Force. Further, there is no evidence of a nexus between the applicant's misconduct of unauthorized testosterone use, lying about his use and possession on divers occasions, and the applicant's contended mental health symptoms related to his post service diagnosis of PTSD. The applicant's records revealed the symptoms for which he sought off base mental health services for included anxiety and flashbacks. A review of the available records revealed the applicant did not seek any mental health service nor report any mental health symptoms during his time in the Army or the Air Force until his misconduct investigation commenced. The applicant's records also revealed he reported that he began using unauthorized testosterone in June 2018, prior to his Air Force commissioning, and did not disclose either his contended low sexual functioning or his mental health symptoms during his accession processing. There is no evidence or records the applicant disclosed or endorsed any mental health symptoms during his commissioning process. A Mental Health Assessment conducted in October 2019 revealed the applicant denied any mental health concerns and declined referrals. Similarly, a post-deployment assessment conducted in January 2020 revealed the applicant reported shoulder problems and snoring but denied any other medical or mental health concerns. Based on the available records, the applicant's condition existed prior to service (EPTS), and he willfully failed to disclose his medical and mental health conditions, the applicant's conditions do not mitigate the misconduct that led to his discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated, it 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 his discharge characterization, to change the discharge narrative reason, and to change the separation 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.

Should the applicant wish to appeal this decision, the applicant must seek relief before the Air Force Board for Correction of Military Records (AFBCMR) in accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*.

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,” and the narrative reason for separation and associated separation code shall remain “Misconduct (Drug Abuse).” The Air Force DRB (AFDRB) results were approved by the board president on 7 November 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)

