

SUMMARY: The Applicant was discharged on 14 April 2010, with a Bad Conduct Discharge after being convicted at a Special Court-Martial of wrongfully introducing methylenedioxymethamphetamine (ecstasy), a Schedule I controlled substance, onto a military installation with the intent to distribute, as part of a conspiracy.

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 an Article 15. Their misconduct included: Providing a False Official Statement, Failure to Refrain from Having Members of The Opposite Sex in Their Dormitory, and Failure to Refrain from Possessing Alcohol in Dormitory.

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 in their character of service due to being undiagnosed with post-traumatic stress disorder and other mental health issues during their tenure of service. The Applicant contests that these undiagnosed conditions directly impeded their ability to perform their duties, ultimately leading to their discharge. They asserted that despite reaching out for help, they were ignored, and their conduct was inaccurately classified as behavioral issues. The Applicant contended that there was a history of mental health that could have been addressed with proper guidance and support from their superior officers. Since their discharge, they have struggled to support their family of three and believed that the upgrade would provide them with much-needed assistance.

The DRB determined there was no evidence, based on the available records, to support the Applicant's request to upgrade or consider clemency. The Applicant failed to establish a clear connection between their mental health condition and how it would mitigate their misconduct in regard to inequity or impropriety. In addition, Although the DRB has the authority to consider various factors regarding clemency, such as candor, atonement, and post-service conduct when recharacterizing a discharge, the Applicant did not provide sufficient supporting documents for this consideration. Ultimately, the severity of the Applicant's deliberate misconduct was deemed to outweigh any positive contributions from their service.

When evaluating an applicant's performance and conduct during their service, the Board may consider exceptional post-service behavior to gain a comprehensive understanding of their conduct. To support a post-service conduct upgrade, the Applicant should submit documents such as verifiable employment records, marriage, and children's birth certificates (if applicable), character witness statements, community or

church service records, certification of non-involvement with civil authorities, evidence of financial stability, or letters of good standing from financial institutions, official transcripts of higher education, and evidence of a drug-free lifestyle. However, it is important to note that completion of these documents alone does not guarantee an upgrade of an unfavorable discharge, as each case is reviewed on its merits to determine if post-service accomplishments demonstrate that in-service misconduct was an exception rather than an indication of the Applicant's overall character.

LIBERAL CONSIDERATION: Due to evidence of a mental health diagnosis and/or experiences of sexual assault or sexual harassment and/or records documenting that one or more symptoms of mental health conditions and/or experiences of sexual assault or sexual harassment existed/occurred during military service found in the Applicant's 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, psychiatrist, or social worker with training on mental health issues connected with post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) or other trauma. 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 PTSD; 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 contends that he had undiagnosed PTSD and other mental issues that transpired throughout his time in the Service. He stated, "These undiagnosed and ignored conditions were directly related to my inability to perform my duties as an Airman resulting in my discharge."

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

The Applicant contended he had an undiagnosed mental health condition including PTSD. There is no evidence to support his contention. The Applicant was diagnosed with an adjustment disorder during his time in confinement for the Court-Marital and that diagnosis was attributed to the personal issues he had that he was unable to address due to his being in confinement. There was no documentation of any mental health condition had led to his conduct issue.

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

There is no evidence that a mental health condition excused or mitigated the discharge.

4. Does that condition or experience outweigh the discharge?

Since there is no evidence that a mental health condition excused or mitigated the discharge, the condition or experience do not outweigh the discharge.

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 their 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," and the reentry code shall remain "2L." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 3 July 2024. 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://afrbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)