

SUMMARY:

The applicant was discharged on 21 January 2020 in accordance with Air Force Instruction 36-3207, *Separating Commissioned Officers*, 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 reentry code.

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 14 December 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 an Article 15. His misconduct included: Wrongfully used 3,4 methylenedioxymethamphetamine, commonly known as ecstasy, a schedule I controlled substance.

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.

In the applicant's personal letter to the Board, he highlighted DoDI 1332.30, titled *Separation of Regular and Reserve Commissioned Officers*, specifically regarding the description of an Honorable service characterization. To convey that his service met the definition of an Honorable character, the applicant stated his service "generally has met the standards of acceptable conduct and performance of duty for military personnel and is otherwise so meritorious that any other characterization would be clearly inappropriate." Furthermore, the applicant indicated that he had a momentary lapse in nearly six years of service, and this lapse does not outweigh the positive aspects of his service. Additionally, the applicant indicated that his narrative reason, which includes "Drug Abuse," is not warranted, because his conduct does not fit the definition of "drug abuse." Lastly, the applicant contended that the events connected to his service-connected PTSD were the cause of his singular lapse of judgment.

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 Board understood that the applicant felt his service was deserving of an Honorable character, however, the applicant did not generally meet standards of acceptable conduct and performance. The applicant violated a zero-tolerance policy for drug use, despite being well aware of this policy. Furthermore, as a seasoned officer in the United States Air Force, he is held to a higher standard, as he is in a position of authority and should be setting the example. Despite being a single offense, the seriousness of using illegal drugs warrants a General Characterization.

Additionally, the applicant indicated that the narrative reason of "Drug Abuse," is improper as his misconduct did not fit the definition of drug abuse. However, this term is used for a broad category of drug related offenses for documentation on the DD Form 214. It does not directly mean the applicant abused drugs.

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 PTSD or 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 checked the box for "PTSD" on the application. The applicant contended his drug use in service was a "momentary lapse in judgement" and contends his service should be categorized as honorable.

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

There is no evidence or records the applicant sought or received any mental health treatment during his time in service. There is no evidence the applicant exhibited or endorsed any clinically significant features of a mental health condition, during his time in service.

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

A review of the applicant's discharge package revealed the applicant was discharged due to drug abuse, specifically 3,4-methylenedioxy-methamphetamine, commonly known as ecstasy. The applicant stated in his response to his referral OPR that used ecstasy in a social setting, with bad influences during EDC (Electric Daisy Carnival) to celebrate his promotion to Captain and his 25th birthday. There is no evidence the applicant sought or received any mental health treatment during his time in service. There is no evidence the applicant exhibited or endorsed any clinically significant features of a mental health condition, during his time in service.

There is no evidence a mental health condition caused or mitigated the misconduct that led to the applicant's discharge.

Regarding the applicant's contention that his narrative reason of "drug abuse" on his DD214 did not coincide with the pattern or definition of substance use according to the APA dictionary and thus is inaccurate, the board does note that narrative reasons for separation are not medical or mental health diagnoses; rather, the narrative reason for separation is a brief explanation of the reason the member left military service.

The applicant submitted his VA rating, but no treatment records, as evidence in support of his claim. Regarding the applicant's concurrence with his VA rating, 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 the applicant had a mental health condition that caused or mitigated the misconduct(s) which led to the applicant's discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated, 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 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 "N/A." The Air Force DRB (AFDRB) results were approved by the board president on 03 January 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://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

