

**SUMMARY:**

The applicant was discharged on 24 September 2018 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 her discharge characterization, a change to the discharge narrative reason, and a change to the reentry 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 25 January 2024.

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, multiple Letters of Reprimand, and multiple Letters of Counseling. Her misconduct included: Wrongfully used marijuana; operated a vehicle in a reckless manner by traveling westbound at a high rate of speed in the eastbound lane, failed to stop at a stop sign and failed to stop for security forces patrol with lights and sirens activated; Failed to report to duty at the time prescribed; Failed to go to appointed place of duty at the appointed time; Failed to report to duty at the time prescribed; Was not the first time; failed to up channel overdue maintenance and was verbally counseled multiple times prior.

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, through counsel, contended that the discharge was inequitable because the use of marijuana was an attempt to cope with severe depression and Post-Traumatic Stress Disorder (PTSD), as a result of Military Sexual Trauma (MST). They also contended that she did not receive the required heightened mental health screenings as a result of an alleged MST, prior to her discharge. The applicant and counsel explained that she attempted seek help by telling superiors about her MST experience but was called a liar and no action was taken. Further, she claimed she contracted Sexually Transmitted Diseases (STDs) as a result of the MST. The news was not kept confidential, and she was subsequently ridiculed. The applicant stated that she was isolated and her mental stability suffered. She explained that she attempted to use alcohol to numb but there continued to be issues. Furthermore, she was denied emergency leave and when she requested a

transfer to another base but was again denied by her supervisors. It was highlighted that only after she attempted to get help and went through several other issues, that she used marijuana to cope.

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 noted the contention that the applicant did not receive the heightened screenings during discharge, however, the applicant did not report an experience of MST, nor received a diagnosis or symptoms of PTSD during service. Furthermore, when specifically asked if she had any experience of MST or other trauma, she denied any experiences. Therefore, special processing was not required during her discharge process. The Board concluded that the applicant was aware of the Air Force zero tolerance policy for illegal drug use, but made the choice to do so anyway. Therefore, with no mitigating factors, the DRB determined that the discharge received was appropriate.

### **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 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 checked the boxes for "PTSD" and "sexual assault/harassment" on the application. The applicant, through counsel, contended "[the applicant's] discharge was inequitable because her use of marijuana was a desperate, last resort attempt to cope with the severe depression and PTSD she suffered as a result of being raped at gunpoint while in the Air Force."*

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

*There is evidence the applicant received outpatient and inpatient mental health services during her time in service. A review of the available records revealed the applicant endorsed symptoms of worry, depressed mood that were increasing in severity over for approximately eight months at the time of the applicant's inpatient hospitalization. The applicant's records revealed the applicant reported her symptoms began shortly after arriving to Kirtland AFB and increased due to occupational stressors. The applicant's records revealed the applicant denied maladaptive alcohol when asked by medical and mental health providers. The applicant's records reveal the applicant was asked specifically about experiences of sexual assault and traumatic experiences during her time in service by multiple mental health provider and denied such experiences. The applicant's records reflect the applicant denied symptoms of PTSD. There is no evidence the applicant received the diagnosis of PTSD during her time in service. The applicant received the diagnosis of adjustment disorder with depressed mood during her time in service.*

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 general character of service due to misconduct (drug abuse) with one year, one month, twenty-four days' time in service. There is*

*no evidence in the applicant's records the applicant reported any experiences of sexual assault during her time in service to anyone, including Sexual Assault Prevention and Response (SAPR), medical providers or any supervisors or leadership; there is evidence the applicant was tested and treated for STDs during her time in service. The applicant's medical record revealed, at the time of the initial STD testing, that the applicant was requesting STD testing because she believed her boyfriend strayed from the relationship, she denied being in any situation where she was harmed or felt threatened per the medical documentation.*

*There is evidence the applicant received outpatient and inpatient mental health services during her time in service. The applicant's records revealed the applicant reported her symptoms began shortly after arriving to Kirtland AFB and increased due to occupational stressors. The applicant's records revealed the applicant denied maladaptive alcohol when asked by medical and mental health providers. The applicant's records reveal the applicant was asked specifically about experiences of sexual assault and traumatic experiences during her time in service by multiple mental health provider and denied such experiences. The applicant's records reflect the applicant denied symptoms of PTSD, denied traumatic experiences. A review of the applicant's post-service records provides contradictory information on the applicant's experience of sexual assault.*

*It is possible the applicant experienced sexual assault during her time in service; however, based on the available records the applicant reported her primary stressors were related to financial issues, continuously making mistakes at her job, and difficulty adjusting to the military lifestyle. The applicant's records revealed the applicant reported to providers that she was experiencing symptoms of low mood due to being away from her family and receiving disciplinary actions at work, and making friends with people who used drugs that subsequently led her to more disciplinary actions. Based on the available evidence in the applicant's records along with the applicant's testimony in her application, there is evidence the applicant was having difficulty adjusting to military life. The applicant reported she chose to use alcohol and drugs in a way that was incompatible with military service, which may explain the applicant's drug use, but it does not mitigate the applicant's misconduct.*

*The applicant, through counsel, submitted her Veteran's Affairs (VA) diagnoses and ratings as evidence in support of her claim. Regarding the applicant's concurrence with his VA diagnoses, the Department of Veteran's Affairs, 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's mental health condition 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, 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 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 "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 Presiding Officer on 25 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)

