

SUMMARY:

The applicant was discharged on 03 February 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a General Discharge for Misconduct (Drug Abuse). 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 08 February 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, a vacation of suspended non-judicial punishment, and a Letter of Reprimand (LOR). Her misconduct included: Wrongfully used psilocybin (mushrooms) while on leave; Wrongful use of Delta-8-Tetrahydrocannabinol.

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 indicated that her misconduct was a mistake she made in response to multiple traumas and untreated mental health issues. She stressed that she had a clean record until the military sexual trauma (MST) experience. The applicant highlighted that she has continually sought help for her mental health conditions which include depression and anxiety. The applicant asked for clemency considering her circumstances.

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 applicant's experience of sexual assault and mental health conditions were known and fully considered at the time of discharge. The discharge received was deemed 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 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 checked the boxes for "PTSD", "other mental health" and "sexual assault/harassment" on the application. The applicant contended "my misconduct was a mistake I made in response to multiple traumas and untreated mental ailments experiences while serving in the military. I had a clean record with no misconduct prior to the MST experienced at my first base. I have continually sought treatment for my anxiety and depression, which is documented on my record."

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

A review of the applicant's records revealed the applicant intermittently received mental health services during her time in service. The applicant's records revealed the applicant requested, and was approved for, mental health services off base due to her preference to utilize a civilian provider. The applicant did not submit her civilian mental health records for review; based on the available military records, the applicant received the diagnosis, in-service, of bereavement, uncomplicated and adjustment disorder. The applicant's records revealed the applicant was referred to Alcohol and Drug Abuse Prevention and Treatment (ADAPT) on three occasions due to maladaptive alcohol and substance use; the applicant's records indicated the applicant denied her substance use was problematic.

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 four years, twenty-six days' time in service. The applicant submitted her Response to the Discharge memorandum to the Board as evidence in support of her claim. The memorandum stated "I know there hardly ever a reason to go against protocol and rules are in place to be followed. However, I am only human, and my mistake was not made on a whim for fun. I came to Shaw because my ideal base in Osan was cancelled due to prior faults made in Germany. This was a letdown and felt like further punishment for prior issues and I only led to a continued series of stressors and misfortune." The applicant also detailed in the memorandum that she was raped while on leave and reported this to the Sexual Assault Prevention and Response (SAPR) office, which resulted in 30 days of convalescent leave and referrals to mental health providers. The applicant also described maladaptive spending patterns when she returned from Germany and feelings of anxiety. The applicant also submitted three pages of her unrestricted SAPR report which detailed her victim reporting preference. The reporting status form stated, "leadership is aware due to discharge case." The applicant also submitted select mental health records from her time in service which detailed the applicant's report of stressors including incarcerated family members, difficulty adjusting to the military lifestyle and OCONUS base, experience of sexual assault that she did not wish to discuss.

A review of the applicant's available in-service records revealed the applicant was discharged due to drug use. A review of the applicant's rebuttal for her LOR for psilocybin use in 2020 revealed the applicant requested, and was granted, retention. The applicant stated in her response to her LOR for psilocybin use "I

joined the military and found myself doing well... I felt good about myself but a month after arriving at my first base I trust the wrong person. I became intoxicated around a fellow airman who I thought would look out for me and not take advantage of me... after that night I was faced with another trauma I did not know how to deal with.” The applicant also described the subsequent death of her brother and stated “I found myself at a loss so I did the only thing I thought might help and I took a controlled substance to numb this ongoing pain that I have been feeling. It did not help either and I know that all I am left with is regret and sadness. I have continued therapy and after 1 chaplain, 2 Sexual Assault Response Coordinator (SARC) personnel, and 3 mental health providers, I started to make progress with my emotions through my current civilian provider. I relived my traumas over and over again to finally find a point of progress. This is a mistake that never happened before and would never happen again.” The applicant requested to be retained based on the retention criteria and stated “This is absolutely a departure from my usual and customary behavior. It had never happened before, and it will never happen again. This was only the result of experimentation during the lowest point of my life and during a time in which multiple traumas were significantly affecting me. Since that time, I have been engaged in therapy and treatment. This is not a recurring incident and I do not desire to engage in drug abuse in the future.”

The applicant’s records revealed the applicant admitted to wrongfully THC (Delta-8) in 2022, three years after the applicant’s reported experience of sexual assault. A review of the applicant’s discharge package revealed the applicant made similar statements to her 2021 LOR rebuttal to investigators after her positive urinalysis for THC and stated to investigators in writing “I admit to my mistake and would hope that you would understand my decision to partake was based on years of trauma. At 19 I lost my sister to a BA [brain aneurysm] and used weed as a solution. I joined [the military] and one month after being in Ramstein I suffered a sexual assault with no way to cope this time.” The applicant also stated in her statement to investigators “I turned to the only thing I knew how to cope with and I hope you understand I was not trying to harm anyone but heal myself. I am truly sorry for letting anyone down.”

The applicant was discharged due to drug use. The applicant’s records revealed a pre-service history of substance use. Based on the available evidence in the applicant’s records along with the applicant’s testimony in her application, there is evidence the applicant acknowledged that using illicit substances was her preferred way of coping. 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.

4. Does that condition or experience outweigh the discharge?

Based on the available records, the applicant’s experience of sexual assault and her in service mental health conditions were known and fully considered during her time in service and during her discharge processing. No error was found in review of the applicant’s records, thus the applicant’s discharge is 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 13 February 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)

