

SUMMARY:

The applicant was discharged on 10 December 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 his 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 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 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. His misconduct included: Between 13 Aug 18 and 13 Sep 18, wrongfully used marijuana, 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.

The applicant detailed an account of being constantly deployed to dangerous locations. Additionally, he disclosed an experience of military sexual trauma (MST), which exacerbated his already fragile mental health. The applicant indicated that he subsequently attempted suicide that morning, but the weapon he was to use was empty. He expressed a fear of seeking help and didn't want to lose out on deploying, so he resorted alcohol. The applicant went on to explain that his fear of being taken off the deployment had materialized, and so his alcohol abuse worsened. His means to cope eventually led to use of marijuana. The applicant requested an upgrade of his discharge so that he may use the GI Bill and to help with his dream to be a helicopter pilot.

The DRB considered the totality of the circumstances and mitigating factors, including the experience of MST and his exemplary service as part of the Security Forces Deployed Aircraft Ground Response Element. Additionally, in reviewing the "Wilkie memo" the Board determined that the relative severity of marijuana use has changed in recent years, thereby changing the relative weight of the misconduct when considering mitigating evidence. Therefore, the DRB determined that the character of service given was inequitable. The narrative reason and reentry code will remain unchanged, as it is accurate in its current form.

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" and "sexual assault/harassment" on the application. The applicant contended "My discharge was due to being a victim of sexual assault that led to severe depression, alcohol and drug abuse, and suicidal tendencies."

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

A review of the applicant's records revealed the applicant sought mental health services during his time in service. The applicant was referred to BAS during his time in technical training due to reporting maladaptive alcohol use and poor sleep. The applicant's records revealed that he again sought mental health services after he came under investigation for testing positive for marijuana. The applicant reported symptoms of poor sleep, isolation, agitation, and difficulty re-adjusting from deployments. The applicant's records revealed he reported his experience of sexual assault to mental health providers. The applicant received the diagnoses in service of 'Other trauma and stress related disorder'. The applicant declined and did not participate in substance use assessment or treatment after his investigation was concluded, thus the applicant's records revealed his substance use diagnoses was deferred due to his unwillingness to participate.

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 six years, five months, fifteen days' time in service. The applicant contended on his application that his experience of sexual assault in March 2108 led to his alcohol and drug abuse that subsequently led to his discharge. The applicant also stated in his personal statement to the board that "the biggest mistake of all though was the fear to seek help within the unit. It already had a reputation for being cold and helpless to their airmen, on top of the fact that going to Mental Health would also take me off deployments lined up and being in an environment where I never want to be useless, I avoided this route although I told a few of my immediate supervisors but told them not to worry." A review of the applicant's records revealed the applicant was referred to ADAPT prior to his deployments for problematic alcohol use and reported symptoms of difficulty sleeping throughout his time in service, as early as his time in technical training.

When he sought mental health services in October 2018 the applicant reported experiencing a sexual assault in March 2018 and that he attempted suicide subsequent to his experience of sexual assault. During intake

assessment the applicant reported experiencing several traumatic events throughout his life and noted that he has experienced increasing agitation following recent deployments with inability to readjust to pre-deployment functioning. The applicant reported to his mental health provider a week later that his investigations and disciplinary actions were resolved, and he no longer wished to discuss any of his traumatic experiences and reported his symptoms had improved. The applicant requested to cease mental health services. A review of the applicant's testimony in his personal statement to the board along with the character statements submitted by the applicant referenced the applicant's change in mood and decline in performance after the applicant's experience of sexual assault. There is evidence the applicant's experience of sexual assault and his mental health condition may have contributed to the misconduct that led to the applicant's discharge, may have mitigated his discharge.

4. Does that condition or experience outweigh the discharge?

In consideration of the totality of the applicant's time in service, there is evidence that his discharge may have been outweighed by his in-service experience of sexual assault and in service mental health condition. The applicant's discharge was caused by drug abuse, thus the narrative reason for separation is not outweighed, however, the board determined the applicant's in-service experience of sexual assault and mental health conditions did outweigh his character of service at the time of 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.

FINDING: The DRB voted unanimously to **approve** the applicant's request to upgrade his discharge characterization. However, it also voted unanimously to **deny** a change to the discharge narrative reason and 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 inequitable. Therefore, the awarded characterization of service shall change to "Honorable," the narrative reason for separation shall remain "Misconduct (Drug Abuse)," and the reentry code shall change to "2C." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 09 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)

