

SUMMARY:

The applicant was discharged on 11 May 2021 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with a General Discharge In Lieu of Trial by Court Martial. The applicant appealed for an upgrade of their discharge characterization.

The applicant requested the Board be completed based on a records only review. The Board was conducted on 21 March 2024. The applicant was not represented by counsel.

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 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; 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 stated that during military service, they were sexually assaulted. They expressed that this incident significantly impacted their mental state. The applicant describes a drastic shift from being a highly accomplished airman, promoted twice above their peers, to grappling with depression and resorting to self-medicating with alcohol and drugs and then finally, a 226-day stay in a psychiatric ward before their ultimate separation. The applicant states that the Military Sexual Trauma played a huge role in their misconduct and subsequent discharge.

The DRB determined during the records review that the command had provided ample support and rehabilitation opportunities for the applicant. The command also had taken the applicant's sexual assault into consideration and made the appropriate discharge decision in hopes that the applicant would thrive better in civilian life. It is also noted that the applicant agreed and accepted the discharge characterization in lieu of a court martial. With that consideration the DRB determined that the severity of the applicant's willful misconduct outweighed any mitigating factors, and the characterization of the applicant's discharge 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 "I was sexually assaulted by my male supervisor. I fell into a dark depression, which was a complete 180 from my service before this happened." The applicant also contended "After the assault came to light, especially with OSI, I lost all hope and everything I worked so hard for because of my depression. I was numbing myself daily with alcohol daily and then tried meth. I spend 226 days in a psych ward and wanted to die. I was considered insane at the time in question and my service should be considered honorable."

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

The applicant's primary mental health provider summarized the applicant's mental health treatment in service in a letter to the discharge authorities: "Throughout her military career, she has had approximately 125 mental health session (approximately 1x/week), 44 substance use treatment sessions, 7 inpatient hospitalizations, and 3 partial hospitalization/intensive outpatient episodes of car. She has spent approximately 226 days (33% of the time) in a higher level of care facility in under 2 years." The applicant received the diagnoses, in service of Borderline Personality Disorder, unspecified depressive disorder, and alcohol use disorder (moderate).

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

A review of the applicant's DD214 revealed the applicant was discharge with an under other than honorable character of service in lieu of trial by court martial with five years seven months twenty days time in service.

A review of the applicant's discharge package reveals the applicant's experience of sexual assault and mental health conditions were known and fully considered during the applicant's request for Chapter Four discharge request and discharge processing.

The applicant's counsel described the applicant's mental health conditions and sexual assault experiences in detail when advocating for the approval of the applicant's Chapter Four discharge and stated "doing so will best ensure SSgt Alejandro's mental stability and guard against a resurgence of symptoms brought on by her borderline personality disorder and anxiety, a situation that could potentially, due to the severity of her symptoms and especially in light of her past attempts, result in her death by suicide." A statement for the discharge authority from the applicant's primary mental health provider also detailed the applicant's behavior to be driven by a personality disorder, not the effects of her sexual assaults or other mental health conditions: "Despite an increased likelihood of using substance to cope with her emotions as part of her Borderline Personality Disorder diagnosis, historically, SSgt Alejandro has utilized alcohol as a primary substance of choice." The provider also noted "As a psychologist, there is a clear connection for me between the alleged offense and her mental health condition, and it is unlikely that any threatened punishment or court martial proceeding will have any significant impact on her behavior other than increasing the risk for future negative behaviors. Prior to the alleged offenses, the Mental Health team had determined that her condition was too severe for continued military service and began the MEB process...It is my strong recommendation to move towards the quickest separation feasible while retaining access to

mental health resources if possible.”

The applicant contended “I was considered insane at the time in question and my service should be considered honorable.” A review of the applicant’s discharge processing revealed the discharging authorities considered the applicant’s ability to participate in her defense and discharge process and stated “At the time of the misconduct, SSgt Alejandro did not have a mental disease or defect that cause her to lack the substantial capacity to either appreciate the criminality or wrongdoing of the act, or to conform to the law. SSgt Alejandro presently has the capacity to understand the nature of the proceedings and to assist in her defense.” The applicant’s records revealed she continued to test positive for methamphetamines, although denying use, after the incident of use and possession of methamphetamines that led to her discharge.

There is evidence the applicant exhibited and endorsed features of a severe personality disorder during her time in service. The applicant’s personality disorder traits likely caused her behavioral and misconduct issues in service and are considered incompatible for military service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. This condition may explain the applicant’s misconduct, but it does not mitigate the misconduct.

Based on review of the available records, the applicant’s contended experience of sexual assault occurred in/around late 2018. There is evidence the applicant’s pattern of maladaptive behavior sharply increased after this time period. The applicant submitted evidence from her mental health provider during her discharge processing that indicated the applicant was experiencing marked distress related to her assault and pending legal problems. There is evidence the applicant’s experience of sexual assault and her mental health condition, were considered during the applicant’s discharge process and may have mitigated her discharge.

4. Does that condition or experience outweigh the discharge?

Although there is evidence the applicant’s experience of sexual assault may have mitigated her discharge, there is insufficient evidence the applicant’s discharge is outweighed. The applicant requested and was granted a Chapter Four discharge. Based on a review of the available records, the applicant’s mental health conditions and experience of sexual assault were known and fully considered by the applicant’s command during the discharge process. No error or 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 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 "General," the narrative reason for separation shall remain "In Lieu of Trial by Court Martial," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 17 April 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)