

SUMMARY:

The applicant was discharged on 24 February 2017 with a Bad Conduct Discharge after being convicted of Wrongful Use of Methamphetamine offense during a Special Court-Martial.

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 requested an upgrade in their discharge characteristic as their mental health, including post-traumatic stress disorder (PTSD) and attention deficit hyperactivity disorder (ADHD), should be considered as mitigating factors to their discharge. Due to lacking a formal diagnosis and access to treatment at that time, they experienced severe depression, difficulty concentrating, irritability, and impulsivity, all of which directly impacted their actions. These symptoms fueled the self-destructive choices that inevitably drove them to self-medicate with a controlled substance, which they acknowledged as a regrettable decision. However, the applicant emphasizes that their overall service was honorable. Since leaving the military, they have actively contributed to their community by volunteering with emergency response teams and establishing a small business for party rentals. They have requested the upgrade to support their family better.

The DRB determined that in reviewing the applicant's record and the evidence provided, the Board did not have enough information to grant clemency. The DRB has the authority to consider several factors, including but not limited to candor, atonement, and post-service conduct when recharacterizing a discharge. When reviewing an applicant's performance and conduct during the service period, the Board will consider exceptional post-service behavior that can provide a more thorough understanding of their conduct. To support a post-service conduct upgrade, the applicant should submit documents such as a verifiable employment record, marriage and children's birth certificates (if applicable), character witness statements, community or church service records, certification of non-involvement with civil authorities, evidence of financial stability or letters of good standing from banks, credit card companies, or other financial institutions, official transcripts of higher education, and documentation of a drug-free lifestyle. However, it should be noted that completion of these documents alone does not guarantee an upgrade of an unfavorable

discharge, as each case is reviewed on its merit to determine if post-service accomplishments demonstrate that in-service misconduct was an exception and not an indication of the applicant's overall character.

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 "other mental health" on the application. The applicant contended (in part) "following my special court martial I was diagnosed with PTSD and ADHD by [doctor] with Bay Pointe Behavioral Health Service. Both diagnoses were unknown, and no treatment was received prior to this counseling session, although I was suffering from depression, difficulty concentrating, irritability, impulsiveness, and self-destructive choices."

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

A review of the applicant's records revealed the applicant was command referred to Alcohol and Drug Abuse Prevention and Treatment (ADAPT) due to a positive drug screen and completed the education classes. There is no evidence or records the applicant sought or received any mental health services during his time in service. There is no evidence the applicant exhibited any clinically significant features of PTSD, or any other 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 DD214 revealed the applicant was discharged with a bad conduct character of service due to a court martial (other) with eleven years, four months, fifteen days time in service. A review of the applicant's records revealed the applicant was charged with and plead guilty to wrongful use of methamphetamine. A review of the available records revealed the applicant and his supervisor reported to the ADAPT provider, after he was command referred, that the applicant was experiencing financial and marital problems at the time of his positive urinalysis. The applicant's records also revealed the applicant reported a pre-service history of substance use. The applicant's records revealed the applicant did not exhibit nor endorse any mental health symptoms during his time in service. There is no evidence the applicant's drug use was due to self-medicating an underlying mental health condition. The applicant stated that he "was a phenomenal Airman" during his time in service aside from making a "horrible decision" and detailed many of his in-service and post service accomplishments and detailed no impact to his duty performance. Based on a review of the available records, there is no evidence a mental health condition caused or substantially contributed to the applicant's choice to use drugs during his time in service. Based on the available records, at the time of the applicant's misconduct, there is no evidence the applicant endorsed or exhibited any clinically significant indicators of a mental health condition; the applicant used 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?

Because the applicant's discharge is not mitigated nor excused by a mental health condition, the applicant's discharge is also not outweighed by a mental health condition.

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 "Bad Conduct Discharge," the narrative reason for separation shall remain "Court Martial," and the reentry code shall remain "2L." 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)