

**SUMMARY:**

The applicant was discharged on 30 April 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 their discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

The applicant requested the Board be completed based on a records only review. The Board was conducted on 28 March 2024. The applicant was 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 applicant's record of service included an Article 15. His misconduct included wrongful use of lysergic acid diethylamide (LSD).

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, argued that his wrongful use of lysergic acid diethylamide (LSD) was a result of post-traumatic stress disorder (PTSD) following his experience at Survival, Evasion, and Resistance Escape (SERE) training and two deployments covering 40 combat missions. The applicant asserts that his PTSD symptoms arose while he was on active duty and remained untreated. The applicant then resorted to using LSD to cope with his symptoms. He documented a number of personality changes and weight gain that allegedly occurred following SERE training. He added that he was removed from flying duty due to a breakdown. He further contends that he resorted to using LSD to self-medicate undiagnosed PTSD after the Air Force failed to provide him adequate mental health treatment.

Post-discharge, the applicant asserted that he started a career as a commercial truck driver but was unable to maintain the job due to his mental health. He stated that he has been diagnosed with PTSD and a major depressive disorder by the Department of Veterans Affairs (VA).

The applicant advanced three arguments for deserving an upgrade: 1) his undiagnosed PTSD contributed to his drug abuse, 2) his quality of service pre-discharge outweighs his misconduct, and 3) his contributions post-discharge outweigh his misconduct.

The applicant's arguments did not persuade the Board that his discharge was inequitable. The Board's rationale rejecting each argument follows.

### **LIBERAL CONSIDERATION:**

The Board examined the applicant's first argument under its liberal consideration standards. Due to evidence of a mental health diagnosis and/or records documenting that one or more symptoms of mental health conditions that existed/occurred during military service found in the applicant's record, the Board considered the case based on the liberal consideration 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 "other mental health" on the application. The applicant, through counsel, contended "[the applicant's] undiagnosed and untreated PTSD during his service time provide context to his reported misconduct and mitigates the same."*

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

*A review of the available records revealed the applicant sought received mental health care during his time in service on three separate occasions: 2015, in theater, 2017. The applicant's records revealed the applicant reported stressors including relational stressors, occupational problems, fitness failures, educational deadlines contributing to his symptoms of anxiety, poor sleep, social withdrawal. The applicant received the diagnosis of adjustment disorder during his time in service but was noted to be resolved, by report of the applicant to provider, each time the applicant terminated services.*

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

*A review of the applicant's DD214, Certificate of Release or Discharge from Active Duty, revealed the applicant was discharged with a general character of service due to misconduct (drug abuse) with four years, eight months, four days time in service. The records available for review were incongruent with the narrative provided by the applicant. The applicant, through counsel, contended he "attempted to self-medicate and used lysergic acid diethylamide (LSD) with his wife [], which resulted in [his wife] having an adverse reaction and the local police department being called for emergency assistance." A review of the available records revealed the applicant encountered police after ingesting LSD and running in the streets requiring police intervention at which time police and EMS personnel noted he was trying to connect with his wife and have some fun.*

*The applicant, through counsel, contended "At the time of [the applicant's] misconduct, his PTSD was undiagnosed by Air Force physicians despite the presence of clear PTSD symptoms, including agitation, mood swings, difficult sleeping, and difficulty problem solving. Further while left undiagnosed and untreated, [the applicant] developed improper forms of coping, which resulted in failed PT tests and a single instance of self-medicating." A review of the available in-service medical records does not corroborate this testimony. Based on the available records, the applicant self-referred to mental health services on two*

*occasions (2015, 2017) and was escorted to mental health during his time in theater for a total three mental health episodes during his time in service. The applicant's records revealed the applicant's presenting issues at the time of service included, in 2015, recent relationship breakup, weight and passing PT test issues, socialization habits. The applicant's records revealed the applicant reported symptom resolution with the interventions provided. A review of the applicant's mental health sessions during his time in theater revealed the applicant endorsed symptoms of stress and anxiety related to enrolling in two classes immediately prior to his deployment and having coursework deadlines. The applicant's records revealed the applicant reported his symptoms and stress abated when his assignments were submitted and deadlines passed and terminated services. A review of the applicant's 2017 mental health services revealed the applicant reported his reason for seeking services was due to three recent PT failures and marital problems and feeling that he holds a different worldview than others in the military. The applicant's records revealed the applicant reported symptom resolution at the conclusion of each stanza of mental health engagement; there is no evidence the applicant endorsed or exhibited any symptoms of PTSD during his time in service that were not better attributed to the diagnoses given to the applicant by providers at the time he was evaluated. A review of the applicant's separation health physical exam (SHPE) revealed the applicant explicitly denied PTSD symptoms, denied any adverse effects of his deployments, but did report he had been sleep talking and experiencing nightmares since his LSD use. Based on the available records, there is no evidence the applicant's choice to use LSD for fun with his wife was an attempt to self-medicate an underlying mental health condition.*

*There is evidence the applicant exhibited and endorsed poor coping skills and difficulty adjusting to the military lifestyle which may explain the applicant's drug use, but it does not constitute a mental health condition and does not mitigate the misconduct(s) that led to the applicant's discharge.*

*The applicant referenced his VA rating as evidence in support of his claim. No post service records were submitted for review, from the VA or other providers, although were referenced and cited in the applicant's request and application to the Board. Regarding the applicant's concurrence with his VA rating, the VA, 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 had a mental health condition that 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 or excused, the applicant's discharge is also not outweighed.*

The Board therefore rejected the applicant's first argument for relief.

### **EQUITY ANALYSIS**

The Board examined the applicant's second and third arguments under the equity factors found in DODI 1332.28, *Discharge Review Board (DRB) Procedures and Standards*, E4.3 and 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 applicant's second argument focuses on the balance between the quality of his service, fitting into the factors laid forth in DODI 133.28 E4.3, and his misconduct. The Board considered his service history, combat service, and capability to serve, but concluded that the positive aspects of his service did not outweigh his misconduct.

A General (Under Honorable Conditions) characterization is appropriate when "when the positive aspects of the enlisted Service member's conduct or performance of duty outweigh negative aspects of the enlisted Service member's conduct or performance of duty as documented in their service record." DoDI 1332.14, *Enlisted Administrative Separations*, at page 30 (paragraph 3(b)(2)(b)). In contrast, an Honorable characterization is appropriate "when the quality of the enlisted Service member's service generally has met the standards of acceptable conduct and performance of duty for military personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate." Id.

The Board determined that the applicant did not generally meet the standards of acceptable conduct by his drug use. To be eligible for an Honorable characterization, the service must be so meritorious that a "General" characterization would be clearly inappropriate. The applicant succeeded in multiple combat missions, but his record did not reflect accomplishments that were "so meritorious" to justify an honorable discharge despite the drug use. At the same time, the Board agreed that the positive aspects of the applicant's service outweighed the negative aspects. Therefore, a general discharge characterization was correct at the time of issuance, and remains so now.

The Board also rejected the applicant's third argument that the applicant's post-service actions merit an upgrade. The Board considered the factors listed in paragraphs (6)(a)-(6)(l) and (7)(a)-(7)(r) of the Wilkie Memo, and found no evidence of inequity or impropriety.

While the Board was pleased to see the applicant's efforts to reintegrate into society and take advantage of VA benefits available to him, none of these were so substantial as to merit an upgrade. The Board determined that the General discharge characterization remains correct.

**FINDING:** The DRB voted unanimously to *deny* the applicant's request to upgrade his 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 2 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)