

SUMMARY:

The applicant was discharged on 21 February 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 requested the Board be completed based on a records only review. The Board was conducted on 04 April 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 applicant's record of service included multiple Article 15s, a vacation of suspended non-judicial punishment, and multiple Letters of Reprimand. His misconduct included: absenting himself from work, using marijuana, and failing to go to his appointed place of work.

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 argued that he deserves an upgrade to his discharge characterization because he was diagnosed with post-traumatic stress disorder (PTSD) and anxiety disorder while in the Air Force. He claimed that he was criticized, humiliated, and punished after returning from treatment. He asserted that this led to another unspecified episode. He also made an allegation that his leadership misunderstood him because he is African American and punished him more severely. Finally, the applicant claimed that he has a six-figure income and family now and has had no trouble since discharge.

The applicant included a copy of his VA disability rating.

The applicant did not specify whether he believed his discharge was improper, inequitable, or both. In such cases, the Board examines an application on the basis of equity alone. DODI 1332.28, *Discharge Review Board (DRB) Procedures and Standards*, E3.5.1.3.5.

The Board determined to deny the applicant's requests because he failed to present substantial credible evidence that his discharge was inequitable.

LIBERAL CONSIDERATION:

Due to evidence of a mental health diagnosis and/or records documenting that one or more symptoms of mental health conditions 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 box for "PTSD" on the application. The applicant contended "During my service with the USAF, I was diagnosed with PTSD and anxiety disorder due to prior service events that was brought to the surface during my service. I received inpatient care for 30 days at Chris Kyle Patriots hospital. After my release back to my unit, I continued to be criticized, humiliated with reductions of rank, pay and was given every day labor from morning to night and all I did was get help. Due to this I had another episode."

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

A review of the available records revealed the applicant endorsed symptoms maladaptive alcohol use, depressed mood, anxiety, difficulty sleeping during his time in service. The applicant's records revealed the applicant received inpatient, outpatient, intensive outpatient service during his time in service. The applicant's records also revealed the applicant was medically referred to Alcohol and Drug Abuse Prevention and Treatment (ADAPT) on two separate occasions. The applicant was noted to be a treatment failure due to his lack of candor and inability to maintain sobriety during his time in service. The applicant's records revealed and applicant stated to the board his conditions existed prior to service (EPTS).

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 two years, five months, twenty-one days time in service. The applicant contended he was diagnosed with PTSD and Anxiety disorder during his time in service due to events that occurred prior to service including during his childhood and his career as an emergency medical technician (EMT) prior to enlisting. Based on the available records, the applicant's condition existed prior to service (EPTS) as did his pattern of maladaptive alcohol use. There is no evidence of service aggravation beyond the natural progression of the illness, thus the applicant's conditions may explain the applicant's misconduct but they do not mitigate nor excuse it under the intent of liberal consideration. EPTS conditions are generally excluded from the intent of liberal consideration, thus the applicant's misconduct is not mitigated or excused by his EPTS condition of PTSD and alcohol dependence.

The applicant submitted his VA rating as evidence in support of his claim. Regarding the applicant's concurrence with his VA ratings, 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. A review of the applicant's post service records revealed the applicant reported his symptoms were related to prior service experiences and symptoms that existed prior to service.

4. Does that condition or experience outweigh the discharge?

Conditions that existed prior to service (EPTS) are generally excluded from the intent of liberal consideration, thus the applicant's EPTS conditions do not outweigh his discharge.

EQUITY ANALYSIS:

The Board examined the applicant's arguments under the equity factors found in DODI 1332.28, *Discharge Review Board (DRB) Procedures and Standards*, E4.3. Based on these factors, the Board rejected the applicant's positions on issues of equity.

DODI 1332.28 states that the discharge is presumed equitable. E4.3. The Board must deem a discharge inequitable if there are new policies applicable granting further benefits (E4.3.1), the discharge was inconsistent with standards of discipline (E4.3.2.), or the discharge can now be seen as inequitable even though it was equitable at issuance based on specified factors (E4.3.3).

After reviewing the applicant's records and contentions, the Board determined that the equitable factors in DODI 1332.28 did not favor relief. The applicant's service had no extraordinary accomplishments to offset his record of misconduct. Although the applicant alleged that he was the victim of racism, he failed to present any corroborating evidence of his claim, and failed to persuade the Board that his allegation was true.

The Board also 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. The Board was pleased to hear that the applicant has had successes in civilian life, but these successes were unaccompanied by any corroborating documentation, and were not so significant to render his discharge inequitable.

In conclusion, the Board considered that 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 concluded 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, and no such meritorious service was found in his records or evidence.

FINDING: The DRB voted unanimously to *deny* the applicant's request to upgrade his discharge characterization. The applicant did not request an upgrade to his reentry code or narrative reason, and the DRB voted unanimously to deny such upgrades.

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 May 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)