

**SUMMARY:** The Applicant was discharged on 16 May 2022 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with a Character of Discharge of Under Honorable Conditions (General), a Narrative Reason for Misconduct (Drug Abuse) and a Reentry Code of 2B. The Applicant appealed for an upgrade of their Discharge Characterization.

The Applicant requested the Board conduct an initial record review of their discharge. The Board convened on 09 May 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 an Article 15, multiple Letters of Reprimand, and multiple Letters of Counseling. His misconduct included using cocaine, not paying off his government travel card, sleeping on duty, not attending medical appointments, and using his phone while assigned to training duties.

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 his command's negligence and racism resulted in unfair treatment, anxiety, post-traumatic stress disorder (PTSD), and adjustment issues. The Applicant stated that he was singled out as the only African American in his unit, and claimed that colleagues would corroborate his story. The Applicant added that he has enrolled in school and is employed.

The Applicant included his DD214, a Department of Veteran's Affairs (VA) decision letter recording an anxiety disorder, a medical record, and character references.

The Board determined to deny the Applicant's requests because he failed to present substantial credible evidence that his discharge is inequitable. DODI 1332.28, *Discharge Review Board (DRB) Procedures and Standards*, E3.2.12.6.

**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),

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 "due to the negligence of my chain of command, I received racism and unfair treatment. This gave me PTSD, anxiety, adjustment issues, and I talked about this with mental health."*

2. Did that condition exist/experience occur during military service? *A review of the Applicant's records revealed the Applicant intermittently sought mental health service during his time in service and reported occupational stress, financial stress, and difficulty sleeping due to shift work. The Applicant's primary providers noted the Applicant exhibited subclinical symptoms and med-seeking behaviors for stimulants after his positive urinalysis for cocaine. The Applicant's records revealed the Applicant was command referred to ADAPT due to a positive urinalysis and completed two education sessions and then declined further services. There is no evidence the Applicant received the diagnosis of PTSD during his time in service. There is no evidence or records the Applicant exhibited or endorsed any clinically significant indicators of PTSD during his time in service. The Applicant received the diagnosis of adjustment disorder during his time in service related to his increasing responsibilities with his job and received medication and intermittently behavioral health therapy sessions. At the time of the Applicant's misconduct, the Applicant's symptoms were noted to have been resolved and he had not endorsed mental health symptoms for more than six months.*

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. The Applicant's discharge was processed through dual action case processing at which time the discharge authority noted "HQ AFPC/DP2NP, after its review of the entire case file, determined that [the Applicant's] medical condition did not contribute to his decision to use cocaine." The commander and discharge authority also noted "I have considered [the Applicant's] administrative discharge case (including his written submission), his disability case, and HQ AFPC/DP2NP recommendation memorandum, concluding his medical condition did not contribute to his decision to use cocaine." The discharge authority noted the Applicant's additional misconducts of misusing and failing to pay his government travel card, failure to go to five appointments, failing to refrain from using his cell phone while on duty, and failing to refrain from sleeping on duty were not used as the basis for discharge.*

*The Applicant contended to the Board that he developed PTSD, anxiety, and adjustment issues after self reporting possible drug use and the legal investigation that followed. There is evidence the Applicant intermittently received mental health services during his time in service and during military investigation and legal proceedings. The Applicant reported his duties were stressful and also reported differing communication styles between himself and his leadership. The Applicant also endorsed relational problems and financial problems as sources of stress during his time service. At the time of the Applicant's misconduct, the Applicant's records revealed he was discharged from mental health services due to subclinical symptoms, no impairing symptoms and lack of treatment participation as well as lack of engagement in treatment.*

*A review of the available post service records revealed a lack of candor regarding the Applicant's substance use. The Applicant submitted his VA rating as evidence in support of his claim. Regarding the Applicant's concurrence with his VA diagnoses, 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 caused or mitigated the misconduct(s) that led to the Applicant’s discharge.*

4. Does that condition or experience outweigh the discharge? *Because the Applicant’s discharge is not mitigated, the Applicant’s discharge is also not outweighed.*

**EQUITY ANALYSIS:** The Applicant did not submit an issue of propriety, and the Board did not rely upon any such issue in its decision. DODI 1332.28 E3.5.4.

The Board examined the Applicant’s arguments and evidence under the equity factors found in DODI 1332.28, E4.3. Based on these factors, the Board rejected the Applicant’s positions on issues of equity. DODI 1332.28 E3.5.6.1.

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 Board considered the following:

**E4.3.1. Existence of new policies:** The Board is unaware of any new policies that would have granted the Applicant further benefits, nor did the Applicant identify any.

**E4.3.2. Consistency with Air Force disciplinary standards:** The Applicant was discharged following an Article 15 for using cocaine. The Board determined that the Applicant’s punishments and discharge were consistent with Air Force standards.

**E4.3.3. Factors revealing inequity even if discharge was equitable at issuance:** The Board also considered factors that would tend to relief even if the Applicant’s discharge was equitable at the time of issuance. Among other factors, the Board considered the following:

**E4.3.3.1: Quality of Service:**

**E4.3.3.1.1. Service history:** The Applicant had average performance evaluations.

**E4.3.3.1.3. Letters of Reprimand:** The Applicant had an LOR for not paying off his GTC and an LOR for sleeping on duty. He had an LOC for not attending medical appointments and an LOC for using his phone when he should have been training.

**E4.3.3.1.6. Demotions:** The Applicant was demoted through his Article 15.

**E4.3.3.1.8. Other acts of merit:** The Board noted that the Applicant assisted law enforcement in investigating drug use. The record showed that the Applicant’s commander granted the Applicant leniency due to this meritorious act.

**E4.3.3.2: Capability of service:**

**E4.3.3.2.2.: Family and personal problems:** The Applicant had documented medical issues and underwent a Medical Evaluation Board (MEB) recommending temporary retirement. However, the Applicant presented no evidence linking these problems to his misconduct, and the Board determined that these issues did not mitigate his misconduct.

**E4.3.3.2.4. Discrimination:** The Applicant alleged discrimination due to his race. The Board determined that the Applicant's claim was unpersuasive, because his statements were not corroborated by any evidence.

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 at least the following factors to be relevant to the Applicant's case:

**6.a. Military custom is to punish to extent necessary and favor second chances:** The Board determined that the Applicant was given progressive discipline but continued his misconduct.

**7.i. Meritorious service in government:** The Applicant stated that he is employed by the VA. The Board did not credit this statement because the Applicant did not provide evidence corroborating it.

**7.p. Character references:** The Applicant's parents and some friends attested to his good character. However, these statements did not persuade the Board that the Applicant's discharge for drug use was inequitable.

In conclusion, the Board considered that a General (Under Honorable Conditions) characterization is appropriate "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 the Applicant failed to present "substantial credible evidence" to the contrary. DODI 1332.28 E3.2.12.6.

**FINDING:** The DRB voted unanimously to **deny** the Applicant's request to upgrade his Discharge Characterization. The Applicant did not request an upgrade to the discharge Narrative Reason or the Reentry Code, and the DRB voted unanimously to **deny** such relief.

Should the Applicant wish to appeal this decision, the Applicant must request a Personal Appearance before this Air Force Discharge Review 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 Character of Discharge shall remain Under Honorable Conditions (General), the Narrative Reason shall remain for Misconduct (Drug Abuse) and the Reentry Code

shall remain 2B. The DRB Presiding Officer approved the results on 19 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)