

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2023-00707
<p>SUMMARY: The Applicant was discharged on 12 September 2021 in accordance with Air Force Instruction 36-3209, <i>Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members</i>, with a General Discharge for Drug Abuse Not Through Urinalysis. The Applicant appealed for an upgrade of their discharge characterization.</p> <p>The Applicant requested the Board be completed based on a records only review. The Board was conducted on 06 June 2024. The Applicant was not represented by counsel.</p> <p>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.</p> <p>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.</p> <p>The documentary evidence the Board considered as part of the review includes, but is not limited to the DD Form 293, <i>Application for the Review of Discharge from the Armed Forces of the United States</i>, 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.</p> <p>The Applicant contested their discharge based on inequity, stating that, based on decency and compassion, the Board should grant her request for an upgrade. The Applicant contended that they would have earned an honorable discharge if not for the traumatic event that occurred during their active-duty service. They stated that they had a good career before receiving a service-connected disability and have attached their VA rating, which shows a diagnosis of Post Traumatic Stress Disorder (PTSD).</p> <p>The DRB determined the discharge was proper and equitable. The Board found that the Applicant's records and application provided insufficient evidence of a mental health condition that caused or mitigated the misconduct that led to the Applicant's discharge.</p> <p>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:</p>	

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The Applicant checked the boxes for "PTSD" and "sexual assault/harassment" on the application. The Applicant contended "I would have incurred an honorable discharge in the absence of the traumatic event that occurred during my active-duty service. I presented a promising and up leveled career before incurring a service-connect disability. Please see the attached VA rating 100% post-traumatic syndrome disorder decision rating attached."

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

There is no evidence the Applicant sought or received any mental health treatment during her time in service. There is no evidence the Applicant exhibited or endorsed any clinically significant features of PTSD, or any other mental health condition, during her time in service. The Applicant contended she experienced a "traumatic event" event during her "active-duty service" but provided no other information about the event such as the nature of the event, when the event occurred, or how event impacted the misconduct that led to her discharge from the Air Force. The Applicant submitted her VA rating as evidence to support her claim but did not submit any evidence or records to substantiate her contention of "sexual assault/harassment" as checked on the application and there were no objective records, in-service or post-service, to substantiate this contention. The Applicant provided less than one sentence of testimony that stated she experience a "traumatic event" but did not provide any other information or testimony for review.

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

A review of the Applicant's NGB22 revealed the Applicant was discharged with a general character of service due to misconduct (drug abuse) with three years, ten months, ten days time in service. A review of the Applicant's NGB22 revealed the Applicant was discharged with a general character of service due to misconduct (drug abuse) with three years, ten months, ten days time in service. The Applicant's discharge package was not available for review.

The Applicant was discharged due to drug use. The Applicant contended she experienced a "traumatic event" event during her "active-duty service" but provided no other information about the event such as the nature of the event, when the event occurred, or how event impacted the misconduct that led to her discharge. A review of the Applicant's in-service records did not reveal any objective evidence that the Applicant exhibited or endorsed any clinically significant indicators of PTSD, or any other mental health condition during her time in service. A review of the available post service records revealed the Applicant endorsed symptoms of anxiety to VA providers and reported symptom onset upon discharge from the military.

Based on the available evidence and records, the Applicant's mental health condition as likely as not developed post-service. Regarding the Applicant's concurrence with her 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 that led to the Applicant's discharge.

4. Does that condition or experience outweigh the discharge?

The Applicant's condition or experience is not mitigated, it does not outweigh the Applicant's discharge.

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 her 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 “Drug Abuse Not Through Urinalysis,” and the reentry code shall remain “6H.” The DRB results were approved by the Presiding Officer on 1 July 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://afrbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)