

SUMMARY: The Applicant was discharged on 31 January 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) discharge for Misconduct (Drug Abuse). The Applicant appealed for an upgrade of their discharge characterization and a change to the discharge narrative reason.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 22 October 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 the following documented misconduct leading up to their discharge:

-Article 15 for the wrongful use of marijuana.

-Letter of Reprimand for failing to meet the minimum satisfactory score of 75% for the Air Force fitness standards.

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 contended their military sexual trauma (MST), and mental health struggles was the direct link to their misconduct leading to their discharge. They argue they served honorably prior to the MST and an honorable discharge is more fitting. They state they were granted an expedited transfer due to MST but was never offered any form of treatment and did not consider going to mental health as an option and their leadership never recommended it even though they were clearly struggling. They are claiming the discharge violated the principles of equity and propriety due to the MST and mental health conditions being ignored.

The Discharge Review Board (DRB) concluded that there was no evidence to support the claim of impropriety or inequity in the Applicant's discharge from the Air Force. The Applicant received an "Under Honorable Conditions (General)" discharge, which is typically issued when a member's negative behavior outweighs the positive aspects of their service. Upon reviewing the Applicant's testimony, the DRB found that it contradicted the information available in their service medical records, mental health records, and administrative records. Specifically, the records revealed that the Applicant had received an expedited transfer and had engaged in mental health services but had chosen to discontinue treatment. Furthermore, the records showed that the Applicant had consistently denied experiencing sexual violence or unwanted sexual contact when questioned by medical providers and annual screeners, both in-person and electronically, until December 2021. Additionally, the Applicant had also denied any mental health

concerns and had not wanted to schedule an appointment to discuss any concerns. Instead, the records indicated that the Applicant had chosen to use cannabis and alcohol in ways that were incompatible with continued military service. This behavior ultimately led to the Applicant's discharge, which was deemed to be in line with Air Force regulations. Based on the evidence, the DRB determined that the Applicant's discharge was proper and equitable, and that there was no basis for upgrading or changing the discharge characterization.

LIBERAL CONSIDERATION: Due to the Applicant's contentions or 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:

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

Yes, the Applicant checked the box for "sexual assault/harassment" on the application. The Applicant, through counsel contended "[the Applicant's] military sexual trauma (MST) and mental health struggles directly led to the conduct that led to their discharge."

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

A review of the Applicant's records revealed the Applicant received mental health services during her time in service with reported symptoms of depressed mood due to COVID environment. The Applicant reported to mental health providers that they began using marijuana during COVID because they were bored and stressed and continued to use it to "unwind." The Applicant reported to a mental health provider in the weeks prior to their discharge that they experienced a sexual assault but did not return for services and did not follow-up with substance use services after they were medically referred.

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 due to misconduct (drug abuse) with three years, ten months, twenty-five days time in service. Based on a review of the available records, the Applicant reported to providers during their time in service that their maladaptive cannabis and alcohol use was due to boredom and loneliness. The Applicant's testimony is contradictory to the information available for review in the Applicant's in-service medical records, mental health records, and administrative records. A review of the Applicant's medical records revealed the Applicant denied experience of sexual violence or unwanted sexual contact when inquired by medical providers and on annual screeners, both in-person and electronic, until December 2021 at which time they reported to a mental health provider that they felt symptoms of depression related an experience of sexual assault that occurred in 2018. The Applicant's records revealed at the time the Applicant's symptoms and experiences were made known by the Applicant, the Applicant was referred to the mental health and substance use services. The Applicant's records revealed that after the Applicant was referred to substance abuse treatment services and mental health services, they did not attend and instead chose to continue using cannabis and alcohol in ways that were incompatible with continued military service. There is evidence the misconduct that led to the Applicant's discharge may have been mitigated by their in-service experience of sexual assault.

4. Does that condition, or experience outweigh the discharge?

Although there is evidence the misconduct that led to the Applicant's discharge may have been mitigated by their in-service experience of sexual assault, there is no evidence the Applicant's discharge is outweighed. At the time of the misconduct that led to the Applicant's discharge, the Applicant's records revealed the Applicant reported they were using marijuana due to boredom, not due to the impacts of their experience of sexual assault. Further, the Applicant continued to use alcohol and drugs in ways that were not compatible with military service after declining military mental health and substance use interventions.

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 separation code.

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 "Under Honorable Conditions (General)," the narrative reason for separation shall remain "Misconduct (Drug Abuse)," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 28 November 2024. If desired, the Applicant can request a list of the Board members and their votes by writing to:

Air Force Discharge Review Board

3351 Celmers Lane

Joint Base Andrews, MD 20762-6435

Instructions on how to appeal an AFDRB decision can be found at

<https://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

