

SUMMARY: The Applicant was discharged on 04 November 2016 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Other Than Honorable Conditions discharge for In Lieu of Trial by Court Martial. 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 13 December 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 DRB provided a notice to inform the service member of resources available to help answer their questions about the application process and/or to help them supplement their application, to include information on the types of evidence that can be submitted to support a claim; information regarding potential eligibility for mental health treatment and evaluation services offered by the Department of Veterans' Affairs (VA); general information regarding Veterans Service Organizations that may assist with DRB applications, and their right to retain counsel; a link to a database of legal services organizations that serve members of the military, veterans, and their families; the weblink to the VA's Directory of Veteran's Service Organizations; and information regarding reasonable accommodation requests from the DRB in the application and adjudication process.

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 sought an upgrade from an Under Other Than Honorable discharge to Honorable, citing that his misconduct was a direct result of significant mental health conditions arising from traumatic events during his service. Over thirteen years in the Air Force, the Applicant stated he had been deployed twice to Afghanistan, consistently earned top performance ratings, and received numerous awards, including the Air Force Commendation Medal. The Applicant recounted facing profound personal tragedies, including the suicides of his former roommate and his pregnant fiancée, the latter occurring during his second deployment in 2015. These events, the Applicant explained, led to diagnoses of depressive disorder, depression, and borderline personality disorder by in-service mental health professionals. Despite seeking treatment, his struggles persisted, culminating in a single instance of cocaine use during a period of acute distress in 2016. His counsel argued that this misconduct was directly tied to his mental health conditions, not indicative of a pattern of behavior, and should be considered mitigated by the trauma he endured.

Since separation, the Applicant stated he had successfully rehabilitated, earning advanced degrees, securing

a senior engineering role, and maintaining a secret security clearance. Counsel asserted that Department of Defense policies, including the 2014 Hagel, 2017 Kurta, and 2018 Wilkie Memoranda, required liberal consideration of mental health conditions as mitigating factors. The Applicant and counsel argued that given his distinguished service, traumatic experiences, and post-service contributions, the Applicant's discharge should be upgraded to Honorable in the interest of justice and equity.

The DRB determined that the Applicant's discharge of an Under Other Than Honorable Conditions for a positive cocaine test, was overly harsh for a single instance of drug use. While the Applicant attributed the misconduct to mental health struggles, the Board found evidence of persistent maladaptive behaviors throughout their service. Personality disorders, while influential, were deemed developmental and unsuitable for mitigation under liberal consideration policies. Additionally, the Applicant's self-discontinuation of mental health treatment and counseling undermined claims of mitigating factors.

Acknowledging the Applicant's 13 years of commendable service, including deployments and strong performance, the Board granted an upgrade to a General discharge as a more appropriate characterization. However, the severity of the misconduct and insufficient evidence of mitigation or rehabilitation did not justify an Honorable discharge or changes to the narrative reason and reentry code. This decision balanced recognition of the Applicant's service with the need to uphold Air Force standards.

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?

The Applicant, through counsel, contended "[the Applicant's] misconduct, a positive drug test after one-time cocaine use, is directly related to his depressive disorder, depression, and borderline personality disorder, which must be seen as mitigating factors in his one poor decision after 13 years of honorable service.

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

A review of the Applicant's in-service medical records revealed the Applicant was referred to mental health services after the suicide death of his girlfriend. The Applicant's records revealed the Applicant engaged in talk therapy and medication management for approximately three months at which time he reported his symptoms had abated and discontinued talk therapy. The Applicant's records revealed the Applicant self-discontinued his medications after approximately twelve months and informed providers he no longer felt he needed them. There is evidence the Applicant exhibited and endorsed features of a personality disorder during his time in service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. Personality disorders that interfere with continued military service are referred for administrative separation and are not unfitting conditions that are processed through a medical or mental health disability evaluation board. The Applicant's records revealed the Applicant was command referred to substance abuse services during his time in service and received intensive outpatient service for maladaptive alcohol use while awaiting his legal disposition for a positive urinalysis for cocaine. The Applicant's records revealed the Applicant received the diagnoses, in

service, of bereavement and borderline personality disorder.

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 an under other than honorable characterization of service in lieu of trial by court martial with thirteen years, four months, four days' time in service.

The Applicant's discharge package was not available for review. Based on a review of the available records, the Applicant used cocaine while intoxicated in a social setting. The Applicant endorsed a pattern of maladaptive behaviors in his relationships including giving large sums of money to people he did not know well and associating with people who need to be "rescued." There is evidence the Applicant exhibited and endorsed features of a personality disorder during his time in service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. This condition may explain the Applicant's behaviors, but it does not mitigate misconduct.

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

There is evidence the Applicant exhibited and endorsed features of a personality disorder during his time in service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. This condition may explain the Applicant's behaviors, but it does not mitigate misconduct. Because the Applicant's discharge is not mitigated by a mental health condition, the Applicant's discharge is also not outweighed.

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.

FINDING: The DRB voted unanimously to **approve** the Applicant's request to upgrade their discharge characterization, however voted unanimously to **deny** changing 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 inequitable. Therefore, the awarded characterization of service shall change to "Under Honorable Conditions - (General)," the narrative reason for separation shall remain "In Lieu Of Trial By Court Martial," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 28 December 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, MD 20762-6435

Instructions on how to appeal an AFDRB decision can be found at
<https://afrbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)