

**SUMMARY:** The Applicant was discharged on 4 May 2015 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) for Misconduct (Other). The Applicant appealed for an upgrade of their character of service.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 12 November 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 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 Applicant's record of service included the following documented misconduct leading up to their discharge:

- Letter of Reprimand (LOR) for violation of the no smoking policy in a government building. Returned and not being able to get in, climbed through the window to retrieve a Hookah pipe and their belongings.
- Letter of Counseling (LOC) for failing to attend a scheduled training appointment.
- LOR for being arrested for public intoxication.
- Article 15 for being drunk while on duty.
- Memorandum For Record (MFR) for missing a scheduled mental health appointment.
- Article 15 for failure to go to appointed place of duty at the time prescribed (x2).
- Vacation of Article 15 for reporting to duty under the influence of alcohol.

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 contests the equity of their discharge, citing that policies and procedures under which they were discharged are materially different from the policies and procedures currently applicable on a service-wide basis and based on consideration of their service record and other evidence. The Applicant cites The

Kurta Memo, stating they satisfy the four guiding questions as they experienced MST four months into their active duty service causing severe trauma and mental health disorders which mitigate any misconduct.

The Applicant provided the following documents in support of their claim: Brief in Support of Petition for Upgrade; Certificate of Release; Record of Nonjudicial Punishment Proceedings; Declaration; Statement in Support of Claim; Medical Records; Initial PTSD Benefits Questionnaire; Memo for All Reviewing Authorities; Notification Memo; Discharge Review Memo; VA Ratings Decision; Hagel Memo; Kurta Memo; Carson Memo; Staff Summary Sheet; Medical Opinion; Personal Strat.

The DRB determined there was insufficient evidence of a mental health condition that excuses or mitigates the misconduct that led to the Applicant's discharge.

**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 checked the boxes for "PTSD," "Other mental health" and "sexual assault/harassment" on the application. The Applicant contended "I contest the equity of my discharge because the policies and procedures under which I was discharged are materially different from the policies and procedures currently applicable on a service-wide basis and based on consideration of my service record and other evidence. The Kurta Memo provides four questions for the Board when considering requests for discharge relief." The Applicant also contended "I satisfy these four guiding questions as I suffered a Military Sexual Trauma (MST) four months into my active duty service when I was drugged, locked in a room, and raped, and the severe trauma and subsequent mental health disorders I experienced as a result of that day serve to mitigate any misconduct."*

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

*A review of the Applicant's in-service records revealed the Applicant sought and received mental health services during their time in service. The Applicant's records revealed the Applicant reported symptoms of anxiety and difficulty sleeping following their experience of sexual assault. The Applicant's records revealed the Applicant received therapy and medication management services during their time in service and after approximately five months of outpatient service, the Applicant reported their symptoms had abated and were well managed. The Applicant's records revealed the Applicant returned to mental health services again, reporting symptoms of anxiety upon receiving disciplinary and legal actions, and continued to receive mental health services through their date of discharge. A review of the Applicant's medical record revealed the Applicant did not meet diagnostic criteria for PTSD at the time of their discharge and was not being considered for a medical evaluation Board. The Applicant's records revealed the Applicant's diagnoses at the time of their discharge were anxiety disorder, unspecified, and alcohol use 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 a general character of*

*service due to misconduct (other) with three years, three months, and five days time in service. A review of the Applicant's discharge package revealed the Applicant made their mental health conditions and request for an honorable characterization known at the time of their discharge processing and these conditions were considered by the Applicant's command and the discharge authorities at the time of the Applicant's discharge. The Applicant stated in their response to discharge notification, "I would like to first apologize for my actions that have led up to this point. I have been dealing with severe mental health issues for two years now to include PTSD, general anxiety disorder, panic disorder, depression, and insomnia. I have made huge strides in progress lately but it has been a very bumpy road that has now affected not only my work but also my personal life and even though I have been progressing, my doctors have been considering a Medical Board for quite some time." A review of the Applicant's medical record revealed the Applicant did not meet diagnostic criteria for PTSD at the time of their discharge and was not being considered for a medical evaluation Board.*

*The Applicant contended the policies under which they were discharged "are materially different" from the policies and procedures currently applicable. A review of the Applicant's records revealed the Applicant was appropriately discharged under the provisions of AFD 36-32 and AFI 36-3208 due to misconduct, which resulted from at least seven documented misconducts. A review of the Applicant's discharge package revealed the Applicant's mental health condition of PTSD, which was the result of their in-service experience of MST, and their other mental health conditions, were known and considered by the Applicant's command and discharge authorities at the time of the Applicant's discharge, and found no nexus between the Applicant's in-service mental health conditions and the misconducts for which they were discharged. At the time of the Applicant's discharge, the discharge authorities did not find the Applicant's mental health conditions to have mitigated their misconduct. No inequity or impropriety was found in the Applicant's discharge processing and the Board notes the Applicant did not provide any additional evidence, testimony, or documentation that was not available for review at the time of the Applicant's discharge for the discharge authorities.*

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

*Based on review of the Applicant's records, the Applicant's mental health conditions were known and fully considered by the Applicant's command during the discharge process. No inequity or impropriety was found in a review of the Applicant's records. There is no evidence of a nexus between the Applicant's in-service mental conditions and the misconduct(s) for which they were discharged, thus the Applicant's discharge is 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 and found no evidence of inequity or impropriety.

**FINDING:** The DRB voted unanimously to **deny** the Applicant's request to upgrade their character of service.

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 "Under Honorable Conditions (General)," the narrative reason for separation shall remain "Misconduct (Other)," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 15 November 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://afrbportal.azurewebsites.us>

Attachment:  
Examiner's Brief (Applicant Only)