

SUMMARY: The Applicant was discharged on 01 July 2010 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) discharge for Misconduct. The Applicant appealed for an upgrade of their discharge characterization.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 19 December 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:

- Article 15 for providing a falsified statements to an investigating office with an intent to deceive.

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 reports experiencing sexual assault during their military service but was too afraid to report it to their supervisor. Instead, they confided in a fellow Airman, who informed a non-commissioned officer (NCO). Although the Applicant denied the incident when confronted, the NCO filed a report based on the information provided. The Applicant stated they refrained from acting against the perpetrator due to prior trauma and fear of retaliation. Later, other individuals reported similar assaults by the same perpetrator, leading the Commander to act and transfer the offender. The Applicant claimed they became a target of ridicule and received no support from their supervisor, the Sexual Assault Prevention and Response (SAPR) program, or others, compounding their trauma. Upon returning from deployment, they struggled with unacknowledged PTSD and attributed a subsequent miscarriage partly to the stress endured during their service.

The Applicant admitted to fabricating details about their pregnancy to participate in an early separation program and escape their torment. They reported feeling isolated, suicidal, and unsupported, with ineffective prescribed treatments. Eventually, they confessed to making a false statement, which resulted in Article 15 punishment and a general discharge. The Applicant believes this characterization was unjust given their otherwise commendable military career. Since the discharge from the military, they have pursued education, married, and had three children but have faced limitations in accessing benefits like the G.I. Bill. They are seeking an upgrade to reflect the challenges they endured and their subsequent achievements

The DRB acknowledges that the Applicant received an Article 15 for submitting a falsified statement about being pregnant to voluntarily separate from the Air Force. While the Board did not have access to the complete discharge package, creating uncertainty about other factors leading to the discharge, they confirmed the approved voluntary separation by the Commander, base separation authority, and the Air Force Personnel Center. The Board also noted the Applicant's strong performance record, with evaluations marked as "above average" and "truly amongst the rest."

Applying liberal consideration, the Board determined there was inequity in the Applicant's discharge and granted relief. This decision was based on the Applicant's available service record, the demonstration of honesty in the testimony, substantiated evidence, and acceptance of the punishment imposed. The Board's decision reflects principles of fairness and equity, recognizing the significant challenges the Applicant faced during their military service.

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 contended they were sexually assaulted during service and initially did not report the incident because they were too frightened to report it to their supervisor. They did confide in a fellow airman about their experience who then shared their ordeal with a non-commissioned officer (NCO) on the flight. The NCO approached them to confirm the incident, and they denied it, but the NCO filed a report based on the information from the other airman anyway. They hesitated to take action against their perpetrator because they had past experiences of being ridiculed for a similar trauma in the past. Others who were assaulted by their perpetrator had come forward and they became the subject of jokes and ridicule making their situation worse. After returning from deployment, they were deeply scarred and suffered from PTSD. They claimed they were discouraged by using their deployment experience as a reason for their emotional distress or not using PTSD as an excuse to be unwell by senior NCOs. When they returned home, they suffered from a miscarriage, and they suspected it was from the trauma and stress they endured in the military. They stated they never informed their unit of their emotional state or that they were no longer pregnant. They claimed that to escape their torment, they feigned pregnancy and later claimed they lost the baby, which was partially true. Their emotional state had deteriorated to the point they were contemplating suicide, and they were prescribed ineffective medications. They eventually chose to admit being pregnant and was already six months along and too close to giving birth to pursue a court martial. They claimed they pled guilty to the

charges against them, accepted the Article 15, and left the military. They received a General discharge and believed it was unjust. In their letter dated 31 December 2022, presumably in response to the VA decreasing the service-connected disability rating, they reported similar accounts as in their petition to the BCMR but stated they faked a pregnancy and made up a story that their child died during childbirth because they were not in a healthy state of mind. They received an Article 15 and at that time, they ended up getting pregnant and had a difficult time being pregnant and separating.

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

There is no evidence or records that the Applicant's sexual assault experience or mental health condition of PTSD from their sexual assault and deployment experiences had existed or occurred during their military service. There are records revealing they briefly sought mental health treatment during service. They were seen once in February 2008 by referral from their OB provider for depression that was caused by an incident at work. Their work incident was not identified or clarified in the records. They received a pre-deployment examination several months after this encounter and denied having any mental health issues. It appeared they were cleared for deployment as there are records reporting they deployed to Iraq after this examination. They returned to mental health treatment on in June 2010 by referral of her OB provider again for depression and attended one follow-up session in June 2010. Their depression was reportedly caused by their significant stressors of transitioning out of the military in June 2010, moving to Georgia in July 2010, being away from their boyfriend/father of their child, and moving home but living alone and worried about being a single mother. They also had anxiety and worried about the well-being and whereabouts of their boyfriend. They were prescribed Zoloft by their OB provider, and they did not find this medication beneficial to them. It is noted they were on this medication for less than a month. They were first diagnosed with PTSD, MDD, and Panic Disorder by their mental health provider at the VA in August 2012, two years after their discharge from the Air Force, caused by several traumatic experiences in their lifetime including childhood abuse, MST from a Sergeant and did not tell anyone, deployment experiences as a Security Forces member in Iraq, and physical abuse in the military by their boyfriend after their deployment in Iraq. There is no evidence they had any of these conditions during service and they may have developed after service.

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

The Applicant's official discharge paperwork is not available or submitted by the Applicant for review. Their military records revealed they received at least one Article 15 in May 2010 for on or about September 2009, with intent to deceive, make, and present to personnel at the Public Health Occupational Medicine Element a document showing they had a positive pregnancy test which was known to them to be false. They also did in March 2010, with intent to deceive make a statement to the Office of Special Investigations that they had given birth to a baby boy and knew this information to be false. It is possible they were dishonest about their pregnancy because they were in an unhealthy state of mind, but the effort that they expended to carry out their false report of being pregnant indicated they had the intent of being dishonest. This type of behavior is not excused or mitigated by their mental health condition. This Article 15 was most likely part of the reason for their discharge for misconduct and it is also possible they had other misconduct problems causing their discharge so it could not be determined whether their mental health condition from their sexual assault or deployment experience could actually excuse or mitigate their discharge. Since their discharge paperwork is absent from their records, the presumption of regularity is applied and there is no inequity or impropriety identified with their discharge. From the available records, their mental health condition developed from their sexual assault and/or deployment experiences does not excuse or mitigate their discharge.

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

Since their mental health condition from their sexual assault and/or deployment experiences does not excuse or mitigate their discharge, their mental health condition or experiences also do not outweigh their 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.

It is consistent with military custom and practice to honor sacrifices and achievements, to punish only to the extent necessary, to rehabilitate to the greatest extent possible, and to *favor second chances* in situations in which individuals have paid for their misdeeds. *The Applicant’s discharge occurred fourteen years ago. The Applicant has already paid for their misdeeds via reduction in grade.*

An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct. *The Applicant’s performance evaluation was marked as “truly amongst the best” just eight months prior to the Applicant’s receipt of the Article 15 issued in May 2010. There were no other disciplinary infractions in the Applicant’s ARMs record available for the Board’s review.*

Evidence in support of relief may come from sources other than a veteran’s service record. A veteran’s or Service member’s sworn testimony alone, oral or written, may establish the existence of a fact supportive of relief. *The Applicant provided substantial evidence to support their claim of military related incidents causing their diagnosis. They provided medical records dating back to 2013 and psychiatrist memorandums with a diagnosis of PTSD, major depressive disorder (MDD), panic disorder with agoraphobia and panic attacks, generalized anxiety disorder, and obsessive-compulsive disorder (OCD). In addition, they provided their VA Form 21-0781 providing specific dates and details regarding the military sexual trauma (MST) they experienced, the actions taken against the MST perpetrator, and the deaths they experienced while being deployed to Iraq as a Security Forces member.*

The Applicant’s candor. Acceptance of responsibility, remorse, or atonement for misconduct. *The Applicant was transparent about their misconduct and showed genuine remorse in their personal statement to the Board.*

Length of time since misconduct. *More than a decade has passed since the Applicant’s misconduct, and they are still seeking therapy to deal with their trauma.*

Character references and Victim support for, or opposition to relief, and any reasons provided. *The Applicant provided evidence of a witness statement from their husband during the time of misconduct of their PTSD symptoms. The witness statement spoke to the drastic changes in the Applicant’s behavior, how certain smells and sounds would trigger the Applicant, and some of the symptoms they displayed such as nightmares and emotional withdrawal, and self-blame for their experiences.*

FINDING: The DRB voted 2 to 1 to **approve** the Applicant’s request to upgrade their discharge characterization.

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 “Honorable,” the narrative reason for separation shall remain “Misconduct,” and the reentry code shall change to “2C.” The DRB results were approved by the Presiding Officer on 14 January 2025. 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)