

SUMMARY: The Applicant was discharged on 25 August 2011 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a Under Honorable Conditions (General) discharge for Misconduct (Minor Infractions). 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 21 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:

- Article 15 for adultery
- Letter of Reprimand for violating leave policy and allowing illicit drugs to be transported in their vehicle without reporting it or taking any other action

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 is requesting an upgrade to their service characterization. They claim they suffered from PTSD due to actively participating in combat during their deployment to Iraq as a security forces member. They contend their discharge was unjust and inequitable.

The DRB determined that the Applicant's discharge from the Air Force was proper, finding no impropriety or inequity. A thorough review of the Applicant's administrative and medical records revealed that they admitted to committing adultery with a fellow unit member resulting in an Article 15. Additionally, the Applicant received a letter of reprimand for violating leave policies and being in the presence of illicit

substances. These incidents formed the basis for the Applicant's discharge.

The Applicant failed to provide sufficient evidence to establish a clear connection between their mental health condition and how it mitigates the misconduct that led to their discharge. Per DAFI 36-2023, *Secretary of the Air Force Personnel Council*, paragraph 3.2.4 “The DRB is not an investigative body and presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to overcome this presumption. The presumption of regularity dictates that, absent evidence to the contrary, commanders, supervisors, and other officials involved with an action acted fairly and in good faith. The Applicant bears the burden of providing evidence to overcome this presumption, and the board will only grant relief if it determines there is sufficient evidence to conclude the Applicant’s discharge was not proper or equitable.” Further, a review of the Applicant's records by the Board revealed no evidence of mental health treatment during their service. Due to the lack of substantial evidence and the absence of in-service mental health treatment, the Board determined that the Applicant's discharge was proper and equitable. As a result, the Board denied the Applicant's request to upgrade their service 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?

The Applicant checked the box for “PTSD” on the application. The Applicant contended “During my service I held the MOS of security forces and received several commendations including the Air Force Achievement Medal, Air Force Outstanding Unit Award, and Air Force Good Conduct Medal. Notably, I was deployed to Iraq, where I actively participated in combat operations. I currently suffer from PTSD as a result of this time in service.”

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

There is no evidence the Applicant sought or received any mental health treatment during their time in service or has sought mental health service post service for their VA rated condition of PTSD. There is no evidence the Applicant exhibited or endorsed any clinically significant features of PTSD, or any other mental health condition, during their time in service.

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 (minor infractions) with five years, six months, twelve days time in service. A review of the Applicant’s discharge package revealed the Applicant’s misconducts including engaging in adultery with another member of the Applicant’s unit, departing the local area two days prior to start of leave, and failing to report criminal activity.

The Applicant provided no information or evidence about how their post-service diagnosis of depressive disorder and alcohol disorder rated by the VA as PTSD caused or contributed to the misconducts that led to

their discharge from military. The Applicant provided no clarifying testimony or evidence regarding a nexus between the misconduct's that led to their discharge and their post-service mental health rating. There is no evidence the Applicant sought or received any mental health treatment during their 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 their time in service. Further, it is unlikely a mental health condition would cause the misconducts that led to the Applicant's discharge, including willfully making false statements about leaving the local area early for leave and failing to report criminal activity in the circumstances in which they occurred.

The Applicant submitted their VA rating as evidence in support of their claim. Regarding the Applicant's concurrence with their 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 misconducts that led to the Applicant's discharge.

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

Because the Applicant's discharge is not mitigated or excused 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 and found no evidence of inequity or impropriety.

FINDING: The DRB voted unanimously to **deny** 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 proper and equitable. Therefore, the awarded characterization of service shall remain "Under Honorable Conditions (General)," the narrative reason for separation shall remain "Misconduct (Minor Infractions)," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 25 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)