

SUMMARY: The Applicant was discharged on 24 September 2012 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) discharge for description of misconduct taken from DD 214. The Applicant appealed for an upgrade of their discharge characterization, a change to the discharge narrative reason, a change to the reentry code, and a change to their separation code.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 19 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 Applicant's record of service included the following documented misconduct leading up to their discharge:

- Article 15 for failing to report to place of duty; made a false statement with intent to deceive
- Article 15 for failing to go to appointed place of duty (2x); sleeping while on duty; making a false statement with 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 and their legal counsel contended the discharge was improper and unjust. They argued their command made a mistake in discretion in not recognizing the decline in their mental health after their deployment. They requested the Board to consider the Kurta Memorandum and the effects of PTSD on the Applicant's behavior. They stated and provided evidence of the Applicant being diagnosed with post-traumatic service disorder (PTSD) in February 2010 following their deployment to Iraq in 2009 to assist a Weapons Intelligence Team. They claimed they used alcohol to manage their PTSD symptoms. When the

alcohol was not enough to help the Applicant cope with their pain, they escalated to using spice. Since the Applicant's discharge they have admitted to their wrongdoing and deeply regrets their mistakes, but now admits and understands their use of marijuana was always for the purpose of self-medication to cope with their traumatic experiences from their deployment. They stated they have obtained a degree in science and secured a position at a nonprofit. Furthermore, the Applicant stated the birth of their child and marriage has allowed them to preserve through their discharge and rehabilitation.

The DRB determined there was no impropriety or inequity in the Applicant's discharge and there was not enough evidence to warrant an upgrade based on the Wilkie Factors. A review of the Applicant's administrative and medical records revealed in 2009, the Applicant deployed to Iraq as part of an explosive ordinance team. Following their deployment, they began experiencing symptoms of post-traumatic stress disorder (PTSD), including headaches, hearing loss, depression, nightmares, and anxiety. The Applicant received mental health treatment on several occasions. On February 5, 2010, they were diagnosed with PTSD, depression, and headaches, and were referred to Physical Medicine and the TBI Team. On February 19, 2010, they were prescribed medication for memory lapses/loss, history of concussion, and PTSD. They continued to receive medication and treatment for their symptoms, with no duty limitations, on multiple visits in 2010. Their medication was changed in August and December 2010 due to persistent symptoms and lack of improvement. By May 2011, they reported improvement in anxiety and depression while taking Prozac. In August 2011, the Applicant reported worsening stress due to allegations of substance misuse and impending Court Martial action which contracted their contentions of using spice to cope with their symptoms. In addition, at the time of discharge the Applicant claimed the drug ingestion was accidental. They were evaluated by ADAPT on August 30, 2011, and admitted to using marijuana on several occasions for recreational use. In October 2011, the Applicant faced a Special Court Martial and was found guilty of failing to report to a prescribed place of duty, making a false official statement regarding their leave address, and wrongfully using marijuana four times. As a result, they were reduced in rank, forfeited pay for five months, and served 75 days of confinement. The Applicant faced a dual-action case, with both an administrative discharge for drug abuse and a Disability Evaluation System case for PTSD with depression. The *Secretary of the Air Force Personnel Council (SAFPC)* Board determined that the Applicant should be discharged via the administrative board for drug abuse, citing no causal relationship between their medical condition and misconduct. Due to this, the DRB denied the Applicant's request for an upgrade to their characterization, a change in their narrative reason, a change to their reentry code, and a change to their separation code.

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 and their legal counsel contended they coped with their mental health condition of PTSD developed from their traumatic deployment experiences in Iraq with alcohol and cannabis/marijuana/spice that resulted in their special court-martial conviction and subsequent discharge from service.

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

There is evidence and records that the Applicant was diagnosed and treated for PTSD developed from their deployment experiences from the period of February 2010 to August 2012 during their military service. They received individual psychotherapy but primarily medication management treatment services. In addition to PTSD, they were also diagnosed and treated for depression, ADHD, and insomnia during service. They were evaluated by ADAPT in August 2011 by referral of their commander following their positive urinalysis for marijuana. They were given a diagnosis of Cannabis Abuse, PTSD, and Depression Not Otherwise Specified, and ADHD from the evaluation and received substance abuse treatment for their cannabis abuse after this evaluation. They successfully completed ADAPT treatment in November 2011.

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

Although the Applicant and their legal counsel contended the Applicant had coped with their mental health condition with cannabis, marijuana, or spice, the Applicant's objective service treatment records contrasted their contentions. Their service treatment records reported that their symptoms worsened after they tested positive for marijuana and had to deal with the aftermath of their marijuana usage. Their treating psychiatrist acknowledged they had PTSD, but their marijuana use was not the result or the cause of their PTSD. The Applicant was inconsistent with their reporting of their marijuana use during and after service. They admitted to using drugs but also stated "the ingestion was unknown/accident" to their psychiatrist in August 2011, they informed their ADAPT provider in August 2011 that they used marijuana-laced cookies recreationally, and now they contend in their petition to the DRB (14 years after their discharge) they used to marijuana to cope with their PTSD symptoms. The Applicant's reports or reasons provided for their marijuana usage at the time of service demonstrated their mental health condition or PTSD could not have caused their marijuana usage because they were either unaware of their ingesting this substance or they used it for enjoyment and not because they were emotionally distraught from their trauma. There is no evidence the Applicant was in emotional distress impairing their judgment caused by their PTSD or any other mental health condition when they used marijuana on numerous occasions during service. This is evidenced by their service treatment records finding no evidence or records that they had clouded judgment or experienced overwhelming or impairing symptoms of PTSD prior to or at the time of their drug use. Their records dispute their contention. Their psychiatrist noted they had acted responsibly at work without any evidence of impaired judgment or maladaptive behavioral problems and this report was corroborated by their commander's report submitted as part of their MEB in January 2012 attesting that the Applicant had demonstrated the capability to perform their duties with a high degree of competency and successfully work on projects with CSAF visibility. The Applicant also received a dual action review of their discharge by the Secretary of the Air Force Personnel Council (SAFPC) and SAFPC determined there was no causal relationship between their medical condition and their misconduct and elected an administrative discharge was most appropriate for the Applicant. The Applicant was not solely discharged from service for marijuana use but also for failing to go to their appointed place of duty in the summer of 2011, with intent to deceive, made a false official statement to a Master Sergeant relating to their leave address which was known to the Applicant to be false. They were convicted at a special court-martial in October 2011 for all these offenses in addition to their marijuana use. There is no evidence their mental health condition caused these other misconducts that culminated in their discharge. Therefore, the Applicant's mental health condition including PTSD developed from their deployment experience does not excuse or mitigate their discharge.

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

Since the Applicant's mental health condition from their deployment experience does not excuse or mitigate their discharge, their mental health condition or experience does not outweigh their original 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 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, to change the reentry code, 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 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://afrbaportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)