

**SUMMARY:** The Applicant was discharged on 29 January 2021 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) discharge for Misconduct (Drug Abuse). The Applicant appealed for an upgrade of their discharge characterization and a change to the separation code.

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 wrongfully used amphetamines and cocaine
- Letter of Reprimand for unlawfully grabbed and pinned a fellow Airman against the wall; drunk and disorderly conduct

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 stated the Board should grant their requested changes due to their service-connected mental health condition. They stated they currently have a general discharge under honorable conditions, and they deserve to be upgraded to an Honorable.

The Discharge Review Board (DRB) determined that the Applicant's discharge was proper and equitable. A review of the Applicant's discharge package revealed that they received a letter of reprimand (LOR) for the wrongful use of amphetamines and cocaine. In response to the LOR, the Applicant admitted to using the

drugs and stated that they were enrolled in the Alcohol and Drug Abuse Prevention and Treatment (ADAPT) Program. However, despite receiving initial treatment, the Applicant was deemed to have failed the ADAPT program due to continued involvement in drug-related misconducts. In September 2020, the Applicant voluntarily admitted themselves into an inpatient facility, but tested positive for cocaine during their stay. They were subsequently discharged and enrolled in a partial hospitalization program, which they continued until November 2020 when the Applicant tested positive for cannabinoids again. According to DAFI 44-121, *Alcohol and Drug Abuse Prevention and Treatment (ADAPT) Program*, paragraph 3.19.2, individuals who have been determined to have failed the ADAPT program are subject to administrative separation by their Commander. The Applicant's repeated failures and misconducts were the basis for their discharge. In response to the notification of discharge, the Applicant waived their rights to consult with counsel and to submit any documents on their behalf.

The Applicant contended that they should receive an upgrade due to their service-connected mental health condition. In support of their claim, they provided their Veteran's Affairs (VA) rating decision, which states that their major depressive disorder, recurrent moderate with generalized anxiety disorder and insomnia, is service connected. However, the Applicant failed to present any additional evidence or testimony to establish a direct correlation between their diagnosis, their repetitive drug use, and their failure of the ADAPT program while in service. The Department of Veteran's Affairs, operating under a different set of laws than the military, is empowered to offer compensation for any medical 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. A review of the Applicant's medical records revealed that they received mental health services related to pre-service experiences, but there was no evidence of service aggravation. Therefore, the DRB denied the Applicant's request for an upgrade and did not find any impropriety or inequity in the discharge, due to the lack of substantial evidence to support their claims.

**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?

*Yes. The Applicant checked the box for "other mental health" on the application. The Applicant contended "the Board should grant my requested change due to my service-connected mental health condition. I currently have a general discharge under honorable conditions, and I deserve to be upgraded to honorable."*

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

*A review of the Applicant's in-service medical records revealed the Applicant initially sought mental health services related to nightmares that started and were ongoing since before their time in service due to pre-service traumatic experiences. The Applicant's records also revealed the Applicant sought and received mental health services related to occupational and marital stressors during their time in service. The Applicant's records revealed the Applicant was command referred to substance use services on multiple*

*occasions due to positive drug tests for methamphetamines, cocaine, and THC.*

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

*No. A review of the Applicant's DD214 revealed the Applicant was discharge with a general character of service due to misconduct (drug abuse) with four years, four months, seventeen days time in service. A review of the Applicant's discharge package revealed the Applicant was discharged on two bases: failure in drug abuse treatment, and drug abuse. The Applicant's records revealed the Applicant received disciplinary action for wrongful use of amphetamines and wrongful use of cocaine. The Applicant's ADAPT records revealed the Applicant was recommend as a drug treatment failure due to involvement in drug related misconduct after receiving ADAPT treatment services. The Applicant provided no testimony, evidence or records regarding a nexus between their post service VA rating and the Applicant's in-service misconducts that led to their discharge. A review of the Applicant's in- service mental health records revealed the Applicant sought and received mental health services related to nightmares that were also occurring prior to service and other symptoms related to pre-service traumatic experience. The Applicant's pre-service experiences and associated symptoms are considered conditions that existed prior to service (EPTS) and are not considered under the intent of liberal consideration. There was no evidence of service aggravation. Further, there is no evidence of a nexus between the Applicant's mental health symptoms and the misconducts that led to their discharge.*

*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 a mental health condition 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 an in-service mental health condition, the Applicant's discharge due to drug abuse 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 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 26 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)