

SUMMARY: The Applicant was discharged on 08 March 2019 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with Under Honorable Conditions - General for Misconduct – Drug Abuse. The Applicant appealed for an upgrade of their discharge characterization and a change to the discharge narrative reason.

The Applicant requested the Board be completed based on a records review. The Board was conducted on 19 December 2024. Counsel did not represent the Applicant.

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 governmental affairs unless there is substantial credible evidence to rebut the presumption, including evidence submitted by the Applicant. The Board thoroughly reviewed 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 the Applicant can submit 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:

- Nonjudicial Punishment for drug abuse.
- Control Roster for bringing a cell phone into the classified briefing.
- Nonjudicial Punishment for drug abuse.
- Letter of Reprimand for being late to an ADPT appointment.
- Letter of Reprimand for failure to maintain service dress uniform.
- Letter of Reprimand for failure to show for an ADPT appointment.
- Letter of Reprimand for misuse of Government Travel Card.
- Referral EPR for making an official false statement.
- Referral EPR for driving while intoxicated.

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 claims that their discharge is unjust due to a service-connected mental illness that was not properly diagnosed. They argue that an upgrade would be life-changing, as it would allow them to further their education and utilize their Montgomery GI Bill benefits. Without access to the GI Bill, the Applicant contends they will face increased financial hardship, which could further negatively impact their mental health.

The DRB determined there is no evidence of a mitigating nexus between the Applicant's claimed mental health condition and the misconduct. The records revealed that a drug urinalysis specimen was collected from the Applicant, which tested positive for Tetrahydrocannabinol (THC). For this misconduct, the Applicant received Nonjudicial Punishment. A second drug specimen was collected, leading to another Nonjudicial Punishment. In response to the discharge notification, the Applicant acknowledged that discharge from the military was the appropriate course of action. However, the Applicant argued that six years of service to the country and significant sacrifices should not go unrecognized due to one month of misconduct. The Applicant contended that such actions did not warrant a discharge Under Other Than Honorable Conditions (UOTHC). Consequently, the Applicant waived their right to a board in exchange for a General Discharge and a reduction in rank from Senior Airman to Airman Basic. The Board concluded the Applicant's misconduct was a significant departure from the conduct expected of all military members; although the Applicant's service record was heavily considered, the Board came to the final decision to deny the requested upgrade.

LIBERAL CONSIDERATION: The Board considered the Under Secretary of Defense memorandum, Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI), dated 24 February 2016, commonly known as the "Carson Memo." Specifically, cases considered previously but without the benefit of the application of Liberal Consideration shall be, upon petition, granted a de novo review utilizing the Supplemental Guidance. The Board found that it did not apply Liberal Consideration when it considered the case previously; therefore, the Board determined the case was eligible for de novo review, incorporating the Supplemental Guidance.

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), 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, "My discharge characterization is unjust due to service-connected mental illness that was not properly diagnosed at the time. I am requesting an upgrade to properly characterize my Honorable service."
2. Did that condition exist/experience occur during military service?
Based on a review of the Applicant's in-service records, the Applicant received medication management for

symptoms of ADHD. The Applicant's in-service records revealed that the Applicant reported that the symptoms were well-controlled on the medication. They denied any side effects and declined mental health services for behavioral modifications for symptoms of ADHD during their time in services. Ten months before the Applicant's discharge, the Applicant adamantly denied any mental health symptoms when asked by Veterans Benefits Administration (VBA) providers who attempted to determine the disability statuses as part of his physical evaluation board. The Applicant stated to the evaluator that he "never" experiences excessive anxiety or worry and believes that worry "puts me in a positive place." The Applicant stated "never" when asked about symptoms of depression.

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

The Applicant was discharged with a general character of service due to misconduct (drug abuse) after serving six years, one month, and twenty-nine days. The discharge review revealed extensive misconduct, including marijuana use twice a week over three months, confirmed by two positive urinalysis results, and six Letters of Reprimand for various infractions. Although the Applicant cited stressors as a reason for drug use, the Air Force Personnel Board determined these did not excuse the misconduct. The Applicant waived their right to an administrative board hearing in exchange for no less than a General discharge, which was approved. While the Applicant later claimed mental health symptoms contributed to their behavior, there was no evidence that a mental health condition caused or mitigated the misconduct. The Applicant submitted VA disability ratings in support of their case, but the Board noted that VA determinations follow different criteria and do not impact the military's characterization of service. At the time of discharge, there was no evidence that a mental health condition influenced the Applicant's misconduct.

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

There is no evidence that a mental health condition caused the misconduct that led to the Applicant's discharge. Because a mental health condition does not mitigate or excuse the Applicant's discharge, it 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, to change the discharge narrative reason, and to change the reentry code.

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.

Instructions on how to appeal an AFDRB decision can be found at <https://afribportal.azurewebsites.us>.

CONCLUSION: After thoroughly reviewing the available evidence, including the Applicant's issues, a summary of service, service/medical record entries, and the discharge process, the Board found the discharge was proper and equitable. Therefore, the awarded characterization of service shall remain "Under Than Honorable Conditions - General," the narrative reason for separation shall remain "Misconduct for Drug Abuse," and the reentry code shall remain "2B." The Presiding Officer approved the DRB results on 12

February 2025. 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

Attachment:
Examiner's Brief (Applicant Only)

