

**SUMMARY:** The Applicant was discharged on 18 July 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with an Under Honorable Conditions - (General) discharge for Misconduct (Serious Offense). The Applicant appealed for an upgrade of their discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 9 January 2025. 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 Serious Misconduct (found drunk on duty as a Security Forces Patrolman and physically controlling a vehicle while drunk)

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.

In the application, the Applicant's counsel contended their client had a distinguished 12-year service record, during which 13 awards and medals were received. Despite this, the Applicant was discharged due to a single incident where found intoxicated while in a car and was not offered any opportunity for rehabilitation. Counsel claimed the Commander who made the decision did not review the service records or consider the character statements provided in support of the then member, instead labeling the Applicant as having "minimal potential" for rehabilitation. Counsel asserts this decision failed to adhere to regulations, which required the Commander to provide reasons why there was no reasonable expectation of rehabilitation. Additionally, Applicant's counsel pointed out the Wilkie memo mandated that the board consider whether this punishment was excessively harsh based on uniformity and equity. Further, the Applicant claims to have

also been diagnosed with PTSD and been granted a 50% disability rating from the Veteran's Affairs. They stated they had endured several traumatic experiences, including witnessing a supervisor commit suicide, which was why drinking was used as a coping mechanism, a fact that only became aware to the Applicant after receiving treatment following the discharge. This, according to counsel, provided a mitigating excuse for the misconduct pursuant to the Kurta/Hagel memos.

A review of the Applicant's in-service records revealed while the Applicant was on duty as a Security Forces patrolman, they were discovered to be operating their patrol vehicle while intoxicated. The Applicant received and accepted nonjudicial punishment for these misconducts. Further, the Applicant was entitled to an administrative discharge board; however, the Applicant waived their right through a conditional waiver contingent on them receiving no less than an Under Honorable Conditions (General) service characterization. During their time in service, the records showed the Applicant was command referred on two separate occasions to substance abuse treatment services and completed alcohol education classes. The Applicant's records revealed the Applicant denied mental health symptoms during his time in service and denied problematic substance use.

Based on a review of the contentions and evidence submitted by the Applicant, through counsel, and a review of the Applicant's available in-service and post service records, the Applicant's claims are contradictory to the evidence available for review. There is no evidence in the records or provided that the Applicant exhibited or endorsed any symptoms of a mental health condition during their time in service. The Applicant's records revealed the Applicant reported to providers that their alcohol use occurred socially with his peers and was not excessive or problematic. Further, based on a review of the Applicant's post-service records, although there is evidence the Applicant obtained a VA rating for compensation purposes, there is no evidence the Applicant received a mental health diagnosis of PTSD post service or that the Applicant sought or received any treatment for a mental health condition from the VA. There is no evidence a mental health condition caused or substantially contributed to the misconduct that led to the Applicant's discharge. The DRB determined that, despite the Applicant's 11+ year service record, the gravity of their misconduct (being found intoxicated on duty, armed, and operating a patrol vehicle) constitutes a significant breach of trust and demonstrates a serious disregard for the safety of themselves and others. The DRB carefully considered the totality of evidence and determined that the discharge was neither improper nor inequitable.

**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, through counsel, contended "[the Applicant] has a distinguished 12-year service record, during which he received 13 awards and medals. Despite this, he was discharged due to a single incident as he was found intoxicated while in a car." The Applicant, through counsel, also contended "[the Applicant has been diagnosed with PTSD and has been granted a 50% disability rating from the VA. He endured several traumatic experiences, including witnessing his supervisors commit suicide. He uses drinking as a coping mechanism, a fact he only became*

*aware of after receiving treatment following his discharge. This provides a mitigating excuse for his misconduct pursuant to the Kurta/Hagel memos."*

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

*There is no evidence the Applicant sought or received any mental health treatment during his 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 his time in service. A review of the Applicant's in-service records revealed the Applicant was command referred on two separate occasions to substance abuse treatment services during his time in service and completed alcohol education classes. The Applicant's records revealed the Applicant denied mental health symptoms during his time in service and denied problematic substance use.*

**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 misconduct (serious offense) with eleven years, nine months, twenty-two days' time in service. A review of the Applicant's discharge package revealed the Applicant requested and was granted a general discharge characterization as a condition of waiving his right to an administrative board hearing.*

*Based on a review of the contentions and evidence submitted by the Applicant, through counsel and a review of the Applicant's available in-service and post service records, the Applicant's claims are contradictory to the evidence available for review. There is no evidence the Applicant exhibited or endorsed any symptoms of a mental health condition during his time in service. There is no evidence or records the Applicant's in service alcohol related misconducts had a nexus to an underlying mental health condition. The Applicant's records revealed the Applicant reported to providers that his alcohol use occurred socially and in social settings with his peers and was not excessive or problematic.*

*In the brief submitted by counsel on behalf of the Applicant, counsel contended "following his discharge, [the Applicant] began receiving PTSD treatment and was granted a 50% rating for PTSD by the VA, effective July 19, 2023." Based on a review of the Applicant's post-service records, there is evidence the Applicant obtained a VA rating for compensation purposes but there is no evidence the Applicant received a mental health diagnosis of PTSD post service or that the Applicant sought or received any treatment for a mental health condition from the VA. There is evidence the Applicant chose to use alcohol in a way that was incompatible with military service, which may explain the Applicant's discharge, but it does not mitigate the Applicant's misconduct.*

*There is no evidence a mental health condition caused or substantially contributed to the misconduct that led to the Applicant's discharge.*

*Regarding the Applicant's concurrence with his 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 misconduct(s) which 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, 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://afrbportal.azurewebsites.us>

**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 (Serious Offense),” and the reentry code shall remain “2B.” The DRB results were approved by the Presiding Officer on 3 March 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)