

SUMMARY: The Applicant was discharged on 26 February 2018 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) for Misconduct (Drug Abuse). The Applicant appealed for an upgrade of their discharge characterization.

The Applicant requested the Board be completed based on a records review. The Board was conducted on 16 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 wrongful use of oxycodone, a Schedule II controlled substance
- Letter of Counselling for failing to abide by the regulations and rules set forth for dormitory residents by having alcohol in the common area that could be assessed by a minor

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 requested an upgrade to their character of service. The Applicant contend they were mercilessly hazed by their senior leadership and experienced sexually harassment from a particular senior noncommissioned officer (SNCO). Due to these experiences, they state they were diagnosed with anxiety, depression, and PTSD. The Applicant stated they made a one-time mistake, and it tarnished their military history.

The DRB determined the Applicant's discharge was proper and equitable. In October 2017, the Applicant was randomly selected for a urine test as part of the Drug Demand Deduction Program (DDRP). While the

results were pending, rumors spread within the unit that the Applicant had consumed a pill that could evade detection by the Air Force's analysis testing. When interviewed by agents from the Air Force Office of Special Investigations (AFOSI), the Applicant invoked their right to remain silent. The following day, the urine sample tested positive for oxycodone and oxymorphone, both of which exceeded the Department of Defense's (DoD) cutoff levels. A review of the Applicant's pharmacy and prescription records revealed no valid prescription for either substance. As a result, the Applicant received nonjudicial punishment, which included a reduction in rank to Airman First Class. The Applicant was subsequently recommended for an administrative discharge due to drug abuse. The discharge package noted that the negative aspects of the Applicant's conduct outweighed the positive aspects of their military record, warranting an Under Honorable Conditions (General) service characterization. The Applicant waived their right to submit statements on their behalf.

The Applicant contend that they were hazed by senior leadership and sexually harassed by a particular Senior Non-Commissioned Officer (SNCO), which led to their diagnosis of post-traumatic stress disorder (PTSD) by the Department of Veterans Affairs (VA). The VA's rating of the Applicant's PTSD is based on a different set of laws and criteria than the military, and it does not necessarily impact the narrative reason for their release from service or their fitness to serve at the time of discharge. The Applicant did not provide substantial evidence to support their contentions or indicate how the sexual harassment contributed to their misconduct. In addition, the Applicant's records did not reveal any evidence that the Applicant disclosed or endorsed any experiences or impacts of sexual harassment during their time in-service. Per DAFI 36-2023, *The 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. Therefore, the DRB denied the Applicant's request for an upgrade to 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 boxes for "PTSD," "Other mental health," and "sexual assault/harassment" on the application. The Applicant contended, in part, "During my time in the Air Force, I always had outstanding EPR's and evaluations. I was a stellar airman and tried daily to uplift everyone's day. Upon arrival to my first base, I was mercilessly hazed by senior leadership. At that time, I just thought it was normal but upon getting out and seeking professional help, I realized that was normal or right. I was diagnosed with anxiety/depression/PTSD stemming from this one man going out of his way to make my life hell."

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. There is no evidence the Applicant endorsed or exhibited any clinically significant features of PTSD or any other mental health condition, during their time in service. A review of the Applicant's in-service records revealed the Applicant was command referred to substance use services after testing positive for multiple classes of prohibited drugs during a random drug screening. The Applicant's records revealed the Applicant denied using prohibited substances, denied maladaptive substance use of any kind, denied all mental health symptoms, and declined mental health services.

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 (drug abuse) with four years, nine months, twenty days time in service. The Applicant's records revealed the Applicant denied all mental health symptoms during their time in service. The Applicant's records revealed the Applicant denied using the substances that were detected in their drug screen and reported to substance use providers that they were "set up" by Air Force leadership. Because the Applicant denied that they committed the misconduct that led to their discharge, the intent of liberal consideration would generally not apply to this Applicant's request. The Applicant contended they experienced witnessing sexual harassment during their time in service but did not indicate how that contended experience of witnessing sexual harassment contributed to the Applicant's positive urinalysis. A review of the Applicant's in service records did not reveal any evidence the Applicant disclosed or endorsed any experiences or impacts of sexual harassment during their time in service to medical providers, EEO, SARC, their chain of command, chaplains, or any other support agency during their time in service. The Applicant lauded their performance during their time in service and stated in their testimony to the board that they had outstanding EPRs. It is possible the Applicant experienced sexual harassment during their time in service. There is no evidence of mitigating nexus or any mental health or behavioral impacts from the Applicant's contended experience of sexual harassment and the misconduct that led to their discharge.

The Applicant submitted their VA ratings summary 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 or mitigating experience that caused or mitigated the misconduct 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 or experience of sexual harassment, 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 (Drug Abuse)," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 3 February 2024. 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

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

Attachment:
Examiner's Brief (Applicant Only)