

**SUMMARY:** The Applicant was discharged on 16 March 2023 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with an Under other Than Honorable Conditions for in Lieu of Trial by Court Martial. 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 27 February 2025. 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 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 through counsel requests an upgrade from Under Other Than Honorable Conditions discharge, arguing that the Applicant's service-connected TBI and PTSD, stemming from a traumatic event, should be considered mitigating factors. Despite the lack of specifics regarding the discharge, the appeal highlights the previous excellent service record, positive character references, and the substantial impact of "invisible wounds." By addressing the Kurta Memo's guidance on considering such conditions, the appeal aims to demonstrate that the Applicant's TBI and PTSD warrant an upgrade to an Honorable discharge and a revised separation narrative.

The DRB reviewed the Applicant's records, which revealed that they served for four years and nine months as a 2A551 Airlift and Special Mission Aircraft Maintenance Journeyman and were discharged with a UOTHC in lieu of a court martial trial. The record also showed that the Applicant submitted a request for discharge under Chapter 4, which was approved by leadership. The Board took note of the Applicant's contentions, which discussed TBI and PTSD but did not address the misconduct that led to the discharge.

Although there was a record of TBI and PTSD in the Applicant's record, it does not mitigate or excuse the misconduct that led to the discharge. The Board found no inequity or impropriety and therefore denied the request for an upgrade.

**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, through counsel, contended "the Applicant was an otherwise remarkable Airman, as is reflected in his performance report and by his letter of support. Additionally, the Applicant suffered a traumatic brain injury which impacted his executive functioning and caused myriad neurological symptoms. This TBI [sic] there is nothing in his well-known character or in his career records to support the allegations made against him, and it would be patently unjust to allow the Applicant to be haunted and hindered for the rest of his life because of them."*

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

*A review of the available records revealed the Applicant briefly utilized embedded behavioral health services during his time in service and sought mental health services during his discharge process. The Applicant records revealed the Applicant incurred a mild traumatic brain injury (mTBI) due to an ATV rollover accident during his time in service and reported symptoms of irritability, headache, and incidents of forgetfulness.*

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 an Under Other than Honorable Character of Service In Lieu of Trial by Court Martial with four years eleven months' time in service. A review of the Applicant's discharge package revealed the Applicant requested and was granted an Under Other than Honorable Character of Service In Lieu of Trial by Court Martial.*

*A review of the timeline of the Applicant's misconducts and medical proceedings revealed the Applicant had charges preferred against him prior to being referred to for a medical evaluation board; as such, dual action processing would not have been recommended IAW AFI 36-3212. A review of the Applicant's medical records revealed the Applicant incurred a mild traumatic brain injury (mTBI) including mild frontal lobe injury and reported sequelae including headache, irritability, and incidents of forgetfulness. The Applicant's brief does not address Kurta questions three or four regarding how the Applicant's mTBI caused, contributed, mitigated, or excused the misconduct that led to his discharge. The burden of proof is upon the Applicant to substantiate claims and requests for relief. The board concurs there is evidence the Applicant incurred a mild TBI during his time in service due to an ATV accident. The TBI incurred during his time in-service, in and of itself, does not mitigate misconduct; there is no evidence of a nexus between the Applicant's mTBI and the misconduct(s) that led to his discharge. Further, the intent of liberal consideration generally does not apply to misconduct involving harm to others. Based on review of the available records, the Applicant's mTBI and sequelae were known and fully considered by the Applicant's command during the*

*discharge process.*

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

*Based on a review of the available records, there is no evidence of a nexus between the Applicant's in-service mTBI and the misconduct(s) that led to his discharge. Further, the intent of liberal consideration generally does not apply to misconduct involving harm to others. Based on review of the available records, the Applicant's mTBI and sequelae were known and fully considered by the Applicant's command during the discharge process, thus the Applicant's discharge is 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 other Than Honorable Conditions," the narrative reason for separation shall remain "In Lieu of Trial by Court Martial," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 8 April 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)

