

**SUMMARY:**

The applicant was discharged on 25 October 2019 with a Bad Conduct Discharge (BCD) after being convicted of falsely substantiating dependent rate Basic Allowance for Housing (BAH) and Family Separation Allowance (FSA) during a Special Court-Martial.

The applicant was not represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 23 March 2023.

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 reenlistment eligibility 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 applicant's record of service included a Special Court Martial order. He was found guilty of the following misconduct: Wrongfully stole BAH at the with dependent rate, of value of about \$5,038.50, from 04 Sep 14 to 02 Nov 16; Wrongfully stole FAH, of value of about \$1,716.67; With intent to deceive, sign the statement to falsely substantiate FAH, when at the time, he was divorced from his former wife; and with intent to deceive, signed an application and authorization to Start, Stop, or Change Basic Allowance for Quarters or dependency redetermination, which the date of divorce was false.

The applicant stated that the discharge was harsh based on the type of incident and requested an upgrade to a "General" discharge. He asked that his untreated mental health condition be considered. The applicant also asked multiple questions to include if there is evidence of discrimination or unfair justice; why he was subject to a Court-Martial with no prior disciplinary actions; and lastly, why he was given such a harsh sentence for a non-violent crime.

Upon review of an applicant's BCD as adjudged by a Special Court-Martial, the DRB may change the punitive discharge to an administrative discharge for the purposes of clemency, if warranted. The Board reviewed the applicant's entire service record and found insufficient evidence to grant the applicant's request. Specifically, the applicant did not provide the Board with information to consider for clemency, such as post service conduct or proof of rehabilitation. The DRB is not an investigative body; therefore, will not be able to answer the questions submitted by the applicant. Additionally, the applicant was subject to a court-martial; a fair trial judged by a jury of his peers. The Board presumes the discharge was proper and equitable. In conclusion, the Board found the negative aspects of the applicant's willful misconduct outweighed the positive aspects of his military service.

**LIBERAL CONSIDERATION:**

The applicant checked the box for “other mental health” on the application. The applicant contended, “*I believe my discharge status was inadequate based on the type of incident[sp] and request the board to upgrade my Discharge Status to General Discharge.*” The applicant also contended, “*I would like the board to take into account untreated health concerns briefly detailed in 22nd Medical Squadron Memorandum.*”

Liberal consideration is not applied to this applicant’s request. Based on a review of the applicant’s records, the misconduct that led to the applicant’s discharge was premeditated and persisted over a period of more than two (2) years. There is no evidence that a mental health condition caused or substantially contributed to the applicant’s premeditated misconduct. Additionally, the applicant did not submit any information about his post-service conduct to consider for clemency.

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.

**FINDING:** The DRB voted unanimously to *deny* the applicant’s request to upgrade his discharge characterization, to change the discharge narrative reason, and to change the reenlistment eligibility 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, equitable, and did not warrant an upgrade based on clemency. Therefore, the awarded characterization of service shall remain “Bad Conduct Discharge,” the narrative reason for separation shall remain “Court-Martial (Other),” and the reentry code shall remain “2L.” The Air Force DRB (AFDRB) results were approved by the board president on 14 April 2023. 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, NAF Washington, MD 20762-6602

Instructions on how to appeal an AFDRB decision can be found at

<https://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

