

SUMMARY:

The applicant was discharged on 03 June 2019 in accordance with AFI 36-3208 with a “General” discharge after “Misconduct (Minor Infractions).” The applicant appealed for an upgrade of her discharge characterization, a change to the discharge narrative reason, and a change to the reenlistment eligibility (RE) code.

The applicant was 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 Air Force Discharge Review Board (AFDRB), 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 an Article 15, multiple Letters of Reprimand (LOR), and multiple Letters of Counseling (LOC). Her misconduct included assaulting her spouse multiple times, being disrespectful towards her leadership, and failing to report to her appointed place of duty.

The applicant contends her discharge was improper and inequitable. The applicant stated that she was under stress which was a result of the mental and physical abuse she endured in her marriage. She stated the marriage ended and she became a single parent. She stated because of the stress, she received multiple LOCs, LORs, an Article 15, and a Unfavorable Information File with control roster was established for her misconduct.

The counsel stated there was an error of discretion at the time the applicant was discharged, and this error harmed the applicant. The counsel stated although the applicant committed multiple acts of misconduct, they were minor infractions, and thus there was still the opportunity to allow the applicant to receive other punishment besides a discharge. The counsel stated the applicant’s command should have used discretion and recommended rehabilitation because the applicant desperately needed it. The counsel stated if the error of discretion had not been made the applicant would not have been discharged and would have received the help she needed.

The Board determined the applicant did not prove her separation was improper or inequitable. In addition, there is no nexus between her mental health and actions that led to her separation.

Due to evidence of a mental health condition found in the applicant’s medical 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 clinical psychologist. Specifically, the Board reviewed the four (4) 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 post-traumatic stress disorder (PTSD); Traumatic Brain Injury (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 began to have issues to with minor misconduct while suffering from unsurmountable stress. The applicant’s stress was the result of mental and physical abuse in her marriage, her marriage ending, and her becoming newly single parent.”

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

Yes/no, state when condition began (See Notes on Important Considerations 2).

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

The applicant contended in her application that she did not receive a referral to FAP due to the first known allegation of abuse. The applicant submitted with her application the applicant’s rebuttal statement to records reflect the applicant’s LOR for domestic violence in which the applicant stated “Currently, my husband and I are seeking family counselling through the Family Advocacy Program...” A review of the applicant’s records indicated some of the applicant’s misconduct(s) were premeditated, which is not considered under the intent of liberal consideration. The applicant acknowledged she was aware that her rank had been reduced but chose to continue wearing the higher rank because she was embarrassed that her rank was reduced and did not want to explain to peers and colleagues that she had lost a stripe. Based on the available records, the applicant reported in her rebuttals to misconduct that she was experiencing stress in her marriage, although a review of the applicant’s medical and mental health records revealed the applicant did not exhibit any clinically significant mental health symptoms and did not receive any mental health diagnoses from her treating providers.

The records revealed the applicant reported feelings of stress related to marital difficulty and difficulty coping with those stressors contributed to additional occupational and legal problems. There is no evidence a mental health condition caused the misconduct(s) that led to the applicant’s discharge. There is evidence the applicant exhibited and poor judgment and poor coping skills during her time in service which may explain the applicant’s misconduct, but it does not constitute a mental health condition and does not mitigate the misconduct(s) 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, 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.”

FINDING: The DRB voted unanimously to **deny** the applicant’s request to upgrade her discharge characterization to “Honorable,” to change the discharge narrative reason to “Secretarial Authority,” and to change the reenlistment eligibility code to “2C” or “3K.”

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 "General," the narrative reason for separation shall remain "Misconduct (Minor Infractions)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the board president on 10 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)