

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT**CASE NUMBER****FD-2022-00601**

SUMMARY: The applicant was discharged on 28 July 2020 in accordance with AFI 36-3208, *Administrative Separation of Airmen* with a General Discharge for Misconduct (Serious Offense). 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 not represented by counsel.

The applicant requested the board be completed based on a records review only. 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 multiple Letters of Reprimand, and a Letter of Counseling. Her misconduct included: (i) A physical altercation with spouse. (ii) Assaulted and battered spouse by shoving her against a wall, pinning her down, placing her hands around her neck, and choking her while screaming "I hate you and I hope you die." This was the second report of serious verbal and physical violence perpetrated by applicant against her spouse. (iii) Applicant and spouse physically assaulted each other while in a vehicle. This was the third report of serious verbal and physical violence between applicant and spouse. (iv) Assaulted and battered spouse when spouse stepped out of the shower, applicant grabbed her, pulled her into the closet, and struck her with a closed fist five (5) times. This was the fourth report of serious verbal and physical violence perpetrated by against her spouse.

The applicant explained that she was in an abusive relationship while serving. She indicated that she suffered from post-traumatic stress disorder (PTSD) and depression during service and still suffers to this day. The applicant highlighted that she worked hard at her job and in the military.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The chain of command attempted to rehabilitate the applicant through multiple administrative actions; however, she did not change the negative behavior. The Board found the seriousness of the applicant's willful misconduct offset the positive aspects of her service.

LIBERAL CONSIDERATION: 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 physician, clinical psychologist, or psychiatrist. 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 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 checked the box for "PTSD" on the application. The applicant contended "I would like to upgrade my discharge to an honorable discharge although I was discharged for misconduct I worked hard at my job and in the military. I was in abusive relationship while serving and I suffered from PTSD and depression during my enlistment and still suffer now."

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

There is evidence the applicant was command referred to the Family Advocacy Program on multiple occasions during her time in service. There is evidence the applicant intermittently sought mental health services early during her time in service reporting symptoms of difficulty adjusting to the military, anger management issues, and marital problems. The applicant received the diagnosis, in service, of adjustment disorder, unspecified. There is no evidence the applicant received the diagnosis, in service, of PTSD; there is no evidence the applicant exhibited any clinically significant indicators of PTSD during her time in service.

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

The applicant contended she was in an abusive relationship during her time in the military. The applicant's records revealed the applicant to be the perpetrator of violence on multiple occasions over a three-year period. The applicant stated in her response to discharge notification: "While in the military I have struggled with my personal relationship with my spouse. She has become violent with me numerous times and has suffered with suicidal ideations. In the beginning of my military career, I called the military police as a cry for help, I never wanted to engage in violence with my wife. But it got to a point where I needed to defend myself and we both began to use violence towards each other...I do not condone violence and know my behavior has been unacceptable." The applicant's records reveal Command stated in the applicant's discharge recommendation, "Before recommending that [the applicant] be discharged, I reviewed her personnel file and consulted with the First Sergeant and [the applicant's] supervisors. [the applicant] was given numerous opportunities to adhere to Air Force standards but has failed to do so despite multiple rehabilitative efforts... [the applicant] has exhibited a pattern of behavior by not refraining from verbally and physically assaulting her spouse." A review of the applicant's records revealed the applicant reported traumatic experiences prior to her time in service that were the basis for her post service diagnosis of PTSD. These are EPTS conditions, and there is no evidence of service aggravation. Further, Liberal Consideration is generally not appropriate for violent offenses. The applicant's relationship problems and maladaptive behaviors may explain her discharge, but it does not mitigate the applicant's misconduct.

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

Based on review of the applicant's records, the applicant's mental health conditions and relationship problems were known and fully considered by the applicant's command during the discharge process. No error was found in review of the applicant's records; 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.

FINDING: The DRB voted unanimously to *deny* the applicant's request to upgrade her discharge characterization, to change the discharge narrative reason, and to change the RE 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 and equitable. Therefore, the awarded characterization of service shall remain "General," the narrative reason for separation shall remain "Misconduct (Serious Offense)," and the reentry code shall remain "2J." The Air Force DRB (AFDRB) results were approved by the board president on 04 May 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

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>

Attachment:
Examiner's Brief (Applicant Only)