

SUMMARY: The Applicant was discharged on 02 June 2014 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions - (General) discharge for Misconduct (Minor Infractions). 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 review only. The Board was conducted on 22 October 2024. 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:

- Letter of Reprimand (LOR) for failure to report to guard mount at the time prescribed.
- LOR for negligently failing to search a hand carried item while coming into a restricted area.
- LOR for stealing merchandise with the approximate value of \$427 from Walmart.

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 in all aspects of their discharge. The Applicant expressed gratitude for being able to serve in the Air Force but acknowledged that their underage drinking was not becoming of an airman. The Applicant stated that they were going through a hard time and were struggling with depression, which led to an increase in alcohol consumption. The Applicant had since been separated from the military and had obtained a license as a practical nurse and was currently pursuing a bachelor's degree in nursing. The Applicant stated that they would like to use their degree in the capacity of the Air National Guard if given the chance.

The DRB found insufficient evidence to support the Applicant's request for an upgrade. While the Applicant cited personal struggles, such as underage drinking and depression, these did not mitigate the seriousness of the misconduct. The Board also considered post-service achievements, like obtaining a nursing license and pursuing a bachelor's degree but determined these were not enough to justify clemency or recharacterization of the discharge. To strengthen such requests, applicants are encouraged to submit documents like employment records, character references, and educational transcripts.

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" and "other mental health" on the application. The Applicant made no other mental health contentions in her statement to the Board and contended that she was drinking alcohol heavily during her time in service and experienced marital problems.

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

There is no evidence the Applicant sought or received any mental health treatment during her time in service. There is no evidence the Applicant exhibited or endorsed any clinically significant features of PTSD, or any other mental health condition, during her time in service. There is evidence the Applicant was medically referred to substance abuse services during her time in service and completed Level 1 ADAPT treatment during her time in service. A review of the Applicant's records revealed the Applicant denied mental health symptoms during her time in ADAPT. There is no evidence the Applicant received a diagnosis of PTSD during her time in service. The Applicant's records revealed the Applicant received a diagnosis of alcohol abuse during her time in service and reported to providers during her time in service that he felt mood improvement, and her marriage improved when she stopped drinking alcohol.

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 (minor infractions) with two years, nine months, twenty-four days' time in service. A review of the Applicant's discharge package revealed the misconducts that led to the Applicant's discharge included failure to report to guard mount, failure to search property coming into a restricted area, and theft of merchandise.

The Applicant made no mental health contentions, nor is there any evidence a mental health condition caused or substantially contributed to the misconducts that led to the Applicant's discharge. Further, premeditated misconduct, including theft of merchandise, is generally excluded from the intent of liberal consideration.

The Applicant submitted her VA rating as evidence in support of her claim. Based on the available evidence and records, the Applicant's mental health condition as likely as not developed post-service. Regarding the Applicant's concurrence with her VA ratings, 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 that caused or mitigated the misconducts that led to the Applicant's discharge.

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

There is no evidence a mental health condition caused or substantially contributed to the misconducts that led to the Applicant's discharge. Because the Applicant's discharge is not mitigated or excused, 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, 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.

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 (Minor Infractions)," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 29 October 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

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

<https://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)