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| **AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT** | CASE NUMBER FD-2019-00672 |
| GENERAL: The applicant was discharged on 03 Feb 2016 in accordance with AFI 36-3208 with a(n) General discharge for Misconduct (Sexual Perversion). The applicant appealed for an upgrade of his discharge characterization to Honorable and a change to the discharge narrative reason. The board was conducted on 31 Oct 2019.  The applicant was offered a personal appearance before the Discharge Review Board (DRB), but declined and requested the board be completed based on a records only review.  The applicant was represented by counsel.  Pursuant to 10 USC §1553, the board included a member who is a psychiatrist/ psychologist with training on mental health issues connected with post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI), and training on mental health disorders.  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.    FINDING: The DRB voted unanimously to *deny* the applicant’s request to upgrade his discharge characterization to Honorable, to change the discharge narrative reason to *Secretarial Authority,* and to change the reenlistment eligibility code to 2C. The member and/or counsel will need to request a FOIA for any documentation regarding the applicant’s official records.  DISCUSSION: The 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 Letter of Reprimand for exposing self in public numerous times.  Due to evidence of / post-traumatic stress disorder (PTSD) / mental health condition/s found in the applicant’s medical record, the board considered the case based on the liberal consideration standards required by guidance from the Office of the Under Secretary of Defense for Personnel and Readiness and/or 10 USC §1553.  The applicant and counsel contended the discharge was inequitable and improper. Applicant’s counsel contends that his mental health condition of undiagnosed PTSD and depression were contributing factors of his misconduct. These were caused by service and personal life events such as the several deployments to hostile environments. They note that prior to his misconduct his service records were impeccable, which should outweigh his misconduct. They state that the applicant should have been afforded the opportunity to participate in the Probation and Rehabilitation (P&R) program. They contend that the administrative board that concluded that P&R was appropriate but he was discharged without the opportunity for P&R. They believe that if the applicant received the P&R, the applicant would have been successful in completing the program. Applicant repeatedly sought the legal review memorandum and has not yet received a copy of the memorandum. They also state that the applicant’s discharge and having to provide his DD 214 deprives him of employment and beneficiary opportunities due to state law. Since his discharge, he has continued to progress and excel by completing his degree and earning several achievement awards.  The DRB took note of the applicant's duty performance as documented by his performance reports, awards and decorations, and other accomplishments. The DRB was pleased to see the applicant has been successful since leaving the Air Force. However, the board reviewed the applicant’s entire service record and found no evidence of impropriety or inequity to warrant any changes to the discharge. The DRB determined that, through the administrative actions taken by the chain of command in this case, the applicant had ample opportunities to change his negative behavior. The board concluded the negative aspects of the applicant’s service outweighed the positive contributions he made during his Air Force career.  After a thorough review of the service record and input from the board’s psychiatrist/ psychologist, the DRB found that some of the applicant’s mental health condition was a mitigating factor to the applicant's misconduct, however, it could not completely explain or excuse the misconduct sufficiently to warrant upgrading the discharge.  CONCLUSION:  The board found insufficient evidence of an inequity or impropriety that would warrant a change to the applicant’s discharge. Therefore, the discharge received by the applicant was deemed to be appropriate and his request was not approved.  The DRB results were approved by the board president on 23 Apr 20. 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  Attachment: Examiner's Brief (Applicant Only) | |