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| **AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT** | CASE NUMBER FD-2019-00749 |
| The applicant was discharged on 15 Mar 2019 in accordance with AFI 36-3207 with an Under Other Than Honorable Conditions discharge In Lieu of Trial by Court-Martial. The applicant appealed for an upgrade of his discharge characterization to Honorable. The board was conducted on 18 Jun 2020.  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.  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.  Due to evidence of mental health conditions 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 contended, through counsel, the discharge was inequitable and improper because his discharge was the result of his seeking legal counsel to report fraudulent, abusive and wasteful practices within the program management office he was assigned to. He asserts he knew he would receive backlash for taking action but felt the risk was necessary. He claims he was charged with UCMJ violations as a result of his attempts to report the alleged fraudulent and/or wasteful practices.  A review of the military record indicated the applicant's security clearance was revoked after a series of violations. He was also removed from his duties as a Joint Worldwide Intelligence Communications System (JWICS) Program Manager and ordered to stop all involvement with the program, an order which he violated by scheduling a conference call relating to the program. While being escorted to his supervisor's office to discuss this incident, the applicant ran out of the building and disappeared from the local area, and remained absent for 8 days until apprehended by civilian law enforcement. His command subsequently placed him in pretrial confinement. Upon release from pretrial confinement, the applicant's commander offered him an Article 15 for absence without leave and failure to obey a lawful order, in violation of Articles 86 and 92, UCMJ. The applicant accepted the Article 15 and received punishment of forfeitures and a reprimand. Approximately two months later the applicant fled from his duty location and attempted to seek asylum in Canada. Canadian authorities denied his request and returned him to US customs and Border Protection (CBP). He was released back to military control and was again placed in pretrial confinement. Court-martial charges were preferred and the applicant submitted a Resignation In Lieu Of (RILO) trial by court-martial, which was approved and he was separated with a UOTHC discharge.  A review of the medical record indicated the applicant was command referred for a mental health evaluation prior to the incidents that led to his Article 15 for and was subsequently returned to duty. Additionally, after court-martial charges were preferred a sanity board evaluation was ordered and he was found fit to stand trial. The sanity board found that he did not suffer from any severe mental health disease or defect and his behaviors were attributed to unsuiting Narcissistic Personality traits that existed prior to, as well as in service.  The DRB found the applicant’s contentions regarding the impropriety and inequity of his discharge without merit. Although a thorough review of the service record and input from the board’s psychiatrist/ psychologist, revealed the applicant’s mental health condition was a mitigating factor to his misconduct, it could not completely explain or excuse the misconduct sufficiently to warrant upgrading the discharge. Therefore, the board concluded the applicant’s misconduct was a significant departure from the conduct expected of all military members. Finally, under DoDI 6130.03, Medical Standards for Appointment, Enlistment, or Induction in the Military Services, under Learning, Psychiatric, and Behavioral Condition, the applicant’s reported history of mental health conditions or disorders prior to and during service are considered disqualifying conditions for induction into military service.  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 25 Jun 2020. 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) | |