

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2022-00614
<p>SUMMARY: The applicant was discharged on 25 February 2021 in accordance with AFI 36-3208, <i>Administrative Separation of Airmen</i> with a General Discharge for Misconduct (Serious Offense). The applicant appealed for an upgrade of his discharge characterization, a change to the discharge narrative reason, and a change to the reenlistment eligibility code.</p> <p>The applicant was represented by counsel.</p> <p>The applicant requested the board be completed based on a records only review. The Board was conducted on 13 April 2023.</p> <p>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.</p> <p>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.</p> <p>The applicant's record of service included an Article 15. His misconduct included: Willfully failed to refrain from engaging in unlawful sexual harassment of an Airman by engaging in unwelcomed sexual advances and inappropriate comments; on various occasions between on or about 01 January 2020 to on or about 30 September 2020, willfully failed to refrain from engaging in unlawful sexual harassment of another Airman by engaging in verbal conduct of a sexual nature; wrongfully communicated to an Airman, a threat to kill another Airman by shooting him; unlawfully grabbed Airman's hair with his hand; unlawfully grabbed Airman's throat with his hand and push her against a wall; unlawfully touched an Airman's buttocks with his hand; attempted to influence the testimony of an Airman, with intent to obstruct the due administration of justice in the investigation of himself, where he had reason to believe there were or would be disciplinary proceedings pending.</p> <p>The applicant and counsel contended that command denied him justice by way of removing opportunities for an administrative discharge hearing or court-martial. They also contended that the member was falsely accused, and he unequivocally denied the allegations. Additionally, they explained that these allegations were improperly investigated, as it was not handled by the Air Force Office of Special Investigations, but rather the Security Forces Squadron and the member's Command. They continued to explain that the allegations were baseless and could not be met by a preponderance of evidence. They stated they were just rumors and could not be corroborated. They also highlighted that the discharge was based on the Article 15, and the misconduct indicated in it was based on a fundamentally flawed investigation. They concluded that the discharge was unlawful and unfair which has negatively stigmatized the applicant.</p> <p>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 applicant did have an opportunity for court-martial; however, he waived this opportunity by accepting the Article 15. Additionally, the applicant did not have a right to an Administrative Discharge Board as he did not meet the time in service nor rank requirements. The Board</p>	

also noted that the applicant did not contend any innocence in response to the discharge. The DRB determined that the applicant did not provide sufficient evidence contrary to the record that would overcome the preponderance of evidence standard. The discharge received was deemed appropriate.

FINDING: The DRB voted unanimously to *deny* the applicant's request to upgrade his discharge characterization, to change the discharge narrative reason, and to change the reenlistment eligibility 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 "2B." The Air Force DRB (AFDRB) results were approved by the board president on 08 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://afrbaportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)