

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2023-00114
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SUMMARY:

The applicant was discharged on 30 November 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airman* with a General discharge for Misconduct (Minor Infractions). 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.

The applicant was not represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 13 July 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 Article 15s and multiple Letters of Reprimand. His misconduct included: Willfully failed to refrain from entering the dorm of the opposite sex; signed an official AF IMT 1168, with the intent to deceive, stating that he only leaned into the window of the opposite sex, which statement was totally false; Made a highly unprofessional comment to another NCO; Failed to properly secure taser, allowing it to fall, damaging government property; removed baton, leaving member without a less-than-lethal option, which goes against AFI 31-117, while working at the base gate; Started leave outside of the local area; Was already out of the area without approved leave 3 days earlier than the request; Negligently failed to properly secure his 21 round 9mm magazine.

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 indicated that he believes he was wrongfully punished because of the mental health issues he was struggling with. He continued to say that mistakes were made that wouldn't have happened if he had a clear head.

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's mental health issues were fully considered during the discharge process. The character received by the applicant was deemed appropriate.

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 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 post-traumatic stress disorder (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 boxes for "PTSD" and "Other mental health" on the application. The applicant contended "I believe that I was wrongfully punished given the circumstances that I was struggling with mental health problems, therefore mistakes were made at work that wouldn't be made with a clear head."

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

A review of the applicant's records revealed the applicant received mental health services during his time in service. The applicant reported symptoms of frustration, depressed mood, and insufficient coping skills (related to his disciplinary actions). The applicant received the diagnosis, in service, of adjustment disorder with disturbance of conduct and mood, and reaction to other or severe stress. There is no evidence the applicant received the diagnosis, in service, of PTSD.

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

A review of the applicant's records revealed the applicant was discharged with 2 years, 10 months, 17 days time in service with a General character of service due to misconduct, minor infractions. A review of the applicant's records revealed the applicant's pattern of misconduct began approximately six months after his enlistment and persisted for the duration of his time in service. Based on the available records, the applicant's records revealed the applicant's documented misconduct included willfully failing to refrain from entering the dormitory of opposite sex, submitting false statements, making lewd and unprofessional statements, failing to secure multiple weapons, and leaving the local area without approved leave status. A review of the applicant's mental health records revealed the applicant sought mental health services in response to the stress of the disciplinary actions imposed, a lack of coping skills, and feeling frustrated. There is no evidence a mental health condition caused or mitigated the misconduct that led to the applicant's discharge.

4. Does that condition or experience outweigh the discharge?

Based on review of the applicant's records, the applicant's mental health conditions 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 his discharge characterization, to change the discharge narrative reason, and to change the reenlistment eligibility 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 "General," the narrative reason for separation shall remain "Misconduct (Minor Infractions)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the board president on 31 July 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
Instructions on how to appeal an AFDRB decision can be found at
<https://afrbportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)

