

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2023-00116
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SUMMARY:

The applicant was discharged on 08 October 2013 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 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 an Article 15. His misconduct included: Willfully failed to refrain from consuming alcoholic beverages while under the age of 21.

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, through counsel contended that an upgrade is warranted because the applicant's in-service PTSD mitigated the misconduct. Secondly, they contended that if the misconduct occurred today, the Air Force's better understanding of PTSD would have resulted in mental health treatment prior to reaching a decision to discharge. Lastly, they contend that the applicant's high-quality service outweighs the misconduct and therefore warrants an upgrade.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. Upon review of this record, the Board was not able to find any documentation regarding the discharge. Since the board relies on the presumption of regularity, it concluded the discharge received by the applicant was 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, through counsel, contended "[the applicant] is entitled to an upgrade to Honorable on several bases, First he experienced PTSD in service..." The applicant, through counsel, also contended the applicant would not have been discharged under today's standards for identification and screening of mental health conditions.

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

There is no evidence the applicant sought or received any mental health treatment during his time in service. There is no evidence the applicant exhibited any clinically significant features of PTSD, or any other mental health condition, during his time in service. There is evidence the applicant was command referred to ADAPT in-service due to underage drinking prior to his deployment.

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

A review of the available records revealed the applicant was discharged with a general characterization due to misconduct (minor infractions) after two years, seven months, and seventeen days time in service. The applicant, through counsel contended "after discharge, [the applicant] was able to obtain proper mental health care and treatment. As a result of his treatment, he has a better handle on his PTSD symptoms. He has worked hard over the years to address and manage his PTSD and remains committed to leading a healthy and productive life." The applicant did not provide any evidence to substantiate his claims of PTSD, nor the impact the applicant's claims of PTSD had on the misconduct that led to his discharge. A review of the applicant's records revealed the applicant's maladaptive underage alcohol use began prior to the applicant's deployment (and per MEPS, also prior to service) and persisted after. The applicant, through counsel, submitted anecdotal articles that pertained to PTSD, alcohol, Veteran's Affairs but did not submit any evidence or records the applicant has received any mental health treatment.

The applicant, through counsel submitted the applicant's VA service connection rating decision as evidence to substantiate his claim. A review of the applicant's records indicated the applicant reported to his post-service providers a post-service racial profiling incident as his index trauma. 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 his VA diagnoses, 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 for 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 misconduct(s) which led to the applicant’s discharge.

4. Does that condition or experience outweigh the discharge?

There is no evidence to substantiate the applicant’s contention that he had a mental health condition in service. Because the applicant’s discharge is not mitigated or excused, it 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.

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)

