

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2023-00174
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SUMMARY: The applicant was discharged on 15 January 2014 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for a Pattern of Misconduct. The applicant appealed for an upgrade of his discharge characterization, a change to the discharge narrative reason, and a change to the separation 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 03 August 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 and multiple Letters of Counseling and Reprimand. His misconduct included: failure to go on multiple occasions, failure to obey orders, and possession of a firearm on base.

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 contended during his time in service he was dealing with insomnia, anxiety, as well as other issues, and was mistreated by his unit leadership. He claimed he tried to talk to people about his problems to no avail. Since his discharge he has been diagnosed with major depressive disorder and given a combined 100% disability rating by the Department of Veterans Affairs (DVA).

A review of the applicant's records revealed he had multiple disciplinary infractions during his tenure in the Air Force. He was counseled on multiple occasions and also punished under Article 15. Additionally, during a random vehicle search, he was found to have a BB gun and ammunition in his possession. He was subsequently administratively discharged for a pattern of misconduct.

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 contend that a condition or experience may have excused or mitigated their misconduct or discharge?

The applicant checked the box for "PTSD" on his application. The applicant contended "during my time in service I was dealing with bad insomnia, anxiety and other issues coupled with the mistreatment from my direct leadership. I tried to speak to people I thought could help at the time (First Sergeant, superintendent) to no avail. On my initial review (my first meeting with my supervisor on station) he informed me that he never gives men a "5" rating on their EPR's and to never expect one from him."

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 also no evidence or records to substantiate the applicant's contention that he developed PTSD during his time in service.

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

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. A review of the applicant's in-service records revealed he reported difficulty reporting for duty on time due to family problems, and time-zone differences between his location and where his family resided disrupted his sleep. 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?

Because the applicant's discharge is not mitigated, his discharge 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 and did not find any evidence of impropriety or inequity.

FINDING: The DRB voted unanimously to **deny** the applicant's request to upgrade his discharge characterization to Honorable and to change the discharge narrative reason and separation code to Secretarial Authority. The DRB also voted unanimously to **deny** changing the reenlistment eligibility code to 2C or 3K.

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, the narrative reason for separation shall remain, and the reentry code shall remain. The Air Force DRB (AFDRB) results were approved by the board president on 09 August 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)

