

<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT</b>	<b>CASE NUMBER</b> <b>FD-2023-00176</b>
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**SUMMARY:** The applicant was discharged on 16 December 2020 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Fraudulent Entry. 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 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 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.

Through counsel, the applicant contended that his discharge was inequitable and improper based on undiagnosed post-traumatic stress syndrome (PTSD). He contended his unit was a toxic environment and he suffered severe hazing which led to major mental health problems. He was diagnosed with major depressive disorder while in service and with PTSD post-service. Counsel argued the applicant's mental health problems were not considered as mitigating factors prior to his discharge. Furthermore, the applicant contended that his discharge was improper based on an "unofficial diagnosis" of autism he received as a child. He further contended both him and his mother disclosed this information to his recruiter and were advised to not disclose it at MEPS because it wasn't an official diagnosis.

A review of the applicant's records revealed he was a firefighter and assigned to his first duty station. The evidence suggested the applicant had issues adjusting to his duties as a firefighter to the point the unit reassigned him temporarily to bay orderly duties in the dorms. He showed improvement while assigned to the dorms so was returned to the fire station where he immediately decompensated. The First Sergeant escorted him to the emergency room (ER) due to suicidal ideations. During the ER visit the applicant reported he had been diagnosed with autism as a child and did not report this diagnosis to MEPS. Both the attending physician and the First Sergeant informed the applicant that this could potentially be a disqualifying condition and could result in his discharge.

Additionally, the applicant was command directed for a mental health evaluation. He shared with the provider a prescription note from a child psychiatrist that had diagnosed him with pervasive development disorder, a disqualifying condition under DoDI 6130.03, *Medical Standards for Military Service*, when he was a child. After his mental health evaluation, the provider diagnosed him with neurodevelopmental disorder and adjustment disorder and recommended him for discharge.

#### **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 applicant's contention that he was improperly discharged based upon an unofficial and insufficient autism diagnosis and both him and his mother told the recruiter about it and were instructed to not disclose it at MEPS. However, the Board determined the applicant voluntarily told the First Sergeant and a medical provider about the diagnosis, and also reported having difficulties for several years because of it. Furthermore, he acknowledged his disclosure could result in his discharge.

A review of the applicant's MEPS records revealed the applicant denied not only any history of pre-service mental health or development diagnosis, but also denied any history of pre-service evaluation for a mental condition, denied any pre-service treatment for a mental health or developmental condition, denied ever receiving any counseling, denied any history of learning difficulties or disorder, and denied ever having seen a counselor or psychological professional for any reason (including divorce). A review of the applicant's records revealed the applicant willfully and intentionally did not disclose pre-service conditions or information that could have been disqualifying.

In response to the applicant's contention that PTSD should have been a mitigating factor, there is no evidence the applicant received a diagnosis of PTSD during his time in service. To the contrary, the applicant's treating provider stated in the Memorandum to the Commanding Officer, "The member has been assessed for the presence of PTSD and was determined to not meet criteria for this condition. There is no evidence that the member meets diagnostic criteria for any other condition (e.g. Traumatic Brain Injury) that would require referral to a medical evaluation board for administrative adjudication." Further, the misconduct that caused the applicant's discharge occurred prior to service and is not considered under the intent of liberal consideration. The applicant's contention that he developed PTSD in service does not mitigate or excuse misconduct prior to the development of the mental health condition, and is neither substantiated with evidence or records, nor considered under the intent of liberal consideration.

The applicant submitted his Department of Veterans Affairs (DVA) rating letter as evidence in support of his claim. Regarding the applicant's concurrence with his DVA rating, the DVA, 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 DVA 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. The applicant was discharged due to willfully failing to disclose pre-service medical conditions. The misconduct that led to the applicant's discharge occurred prior to service and is not mitigated by an in-service mental health condition.

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 10 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)

