

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2023-00204
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SUMMARY:

The applicant was discharged on 13 May 2022 in accordance with AFI 36-3208 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 (RE) 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 7 April 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 Air Force Discharge Review Board (AFDRB), 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 Letters of Reprimand. His misconduct was for having no record of a vaccination nor request of an exemption wavier.

The applicant requested an upgrade to the character of his discharge. He explained that he was denied religious accommodation and voluntary separation in lieu of taking the vaccine. The applicant concluded that this discharge has caused great stress in his family.

The Board reviewed the applicant's entire service record and determined that based on the nature of the misconduct leading to the discharge, and current Department of Defense and Department of the Air Force policies, the discharge is inequitable. In accordance with Department of Defense Instruction 1332.28, "A discharge shall be deemed to be equitable unless:

- E4.3.1. In a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from those currently applicable on a Service-wide basis to discharges of the type under consideration provided that:
 - E4.3.1.1. Current policies or procedures represent a substantial enhancement of the rights afforded a respondent in such proceedings; and
 - E4.3.1.2. There is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration."

The Secretary of Defense has rescinded the 3 September 2021 and 7 December 2021 Covid-19 Vaccination Policy Memoranda, effective 23 January 2023, as required by the National Defense Authorization Act for Fiscal Year 2023. Due to service-wide policy changes, the Air Force is no longer discharging members with

general service characterizations solely for refusing to receive the COVID-19 vaccine. Therefore, the Board concluded the applicant's discharge was inequitable due to these changes in law and policy. Per guidance from the Secretary of the Air Force, former DAF service members may petition the Air Force Discharge Review Board to individually request a correction to their personnel records, including the characterization of their discharge. The Board considered the applicant's request for discharge upgrade, that the discharge was based solely on the applicant's refusal to take the COVID-19 vaccine, there were no aggravating factors in the record, such as additional misconduct and approved the applicant's request.

FINDING: The AFDRB voted unanimously to *approve* the applicant's request to upgrade his discharge characterization to "Honorable," to change the discharge narrative reason to "Secretarial Authority," and to change the reenlistment eligibility code to "3K."

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 improper and inequitable. Therefore, the awarded characterization of service shall change to "Honorable," the narrative reason for separation shall change to "Secretarial Authority," and the reentry code shall change to "3K." AFDRB results were approved by the board president on 20 April 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)