

<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT</b>	<b>CASE NUMBER</b> <b>FD-2023-00214</b>
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**SUMMARY:** The applicant was discharged on 16 February 2011 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Misconduct. The applicant appealed for an upgrade of his discharge characterization.

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 24 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 reenry 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, a vacation of suspended non-judicial punishment, and multiple Letters of Counseling and Reprimand. His misconduct included: failure to go on multiple occasions, failure to follow orders, speeding, failure to have proof of insurance, and driving on a suspended license.

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 his discharge was inequitable because the severity and frequency of misconduct claimed against him did not warrant his separation from the Air Force for misconduct. He contended he was awarded the Good Conduct Medal and was only five months from his date of separation.

A review of the applicant's record revealed he had multiple disciplinary infractions over the course of approximately 18 months. His misconduct included failure to go on multiple occasions, failure to follow orders, multiple speeding violations, and driving on a suspended license and suspended base driving privileges.

**LIBERAL CONSIDERATION:**

Due to the applicant's contention of a mental health condition, 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 "other mental health" on his application. The applicant made no other mental health contentions. The applicant contended "My discharge was inequitable because the severity and frequency of the misconduct claimed against me does not warrant the action taken. My separation narrative is "misconduct (other)," yet I was awarded an Air Force Good Conduct Medal. My misconduct is summarized by parking tickets, and a write up for 'disobeying a direct order from an NCO' which was for not ironing my pants. I didn't iron my pants because my friend was suicidal and I stayed with him all night to make sure he survived. I was only five months from completing my service."*

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

*The applicant did not make any claims or contentions that a mental health condition caused or contributed to the misconduct that led to his discharge. A review of the applicant's records revealed he sought mental health services after he received his first non-judicial punishment and received the diagnosis, in service, of occupational problem.*

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

*A review of the applicant's DD 214 revealed he was discharged with a General character of service due to misconduct (other). A review of the applicant's discharge package revealed the misconduct that led to his discharge included: multiple traffic violations resulting in suspension of the applicant's on base driving privileges, failure to follow a lawful order to fix uniform discrepancies and disobeying the same order again four days later, failure to report to formation wearing the correct rank, and multiple Letters of Reprimand for being late for duty. The applicant made no claims or contentions that a mental health condition caused or contributed to the misconduct that led to his discharge. There is no evidence of a mitigating nexus between the supportive mental health services the applicant received after his disciplinary actions and 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, 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 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. The DRB also voted unanimously to **deny** changing the discharge narrative reason and changing the reentry 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, 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 28 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)

