

SUMMARY:

The applicant was discharged on 25 March 2008 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 21 September 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 Reprimand. His misconduct included: Failed to obey an order to complete specific units in CDCs; Counseled twice regarding deadlines to complete CDCs; Failed to report at the time prescribed to the appointed place of duty; Failed to report at the time prescribed to the appointed place of duty; Failed to report at the time prescribed to the appointed place of duty; Failed to refrain from using the Government travel card between on or about 3 Dec 05 and on or about 1 Feb 06; Found asleep in break room while on duty and was ordered to return to work. The NCO found the member asleep again in the break room 20 minutes later; Recklessly operated a vehicle at a high rate of speed in an erratic manner, endangering the well-being of two children in the car; Supervisor found member watching a movie while on duty and was ordered to return to duties. Later that day a SNCO found the member again watching a movie while on duty; Wrote five checks from his account without sufficient funds to cover between on or about 1 Jul 07 and on or about 7 Aug 07. The local police department served member with five warrants for arrest based on the bounced checks.

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 indicated that he struggled with attention deficit disorder and insomnia, so he was extremely exhausted. He explained that when he asked for help, he was accused of being lazy and insubordinate, which caused him to be depressed, unmotivated, and added to his failing physical health. The applicant felt leadership and peers did not care and was retaliated against due to his cry for help. The applicant concluded

that he did not receive the support or care he needed.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. Command attempted to rehabilitate the member through administrative actions. Despite having ample opportunities to change his negative behavior, the applicant chose to continue this pattern of misconduct. Therefore the Board concluded that the discharge received was appropriate for the circumstances.

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 "other mental health" and "reprisal/whistleblower" on the application. The applicant contended "During active duty, I struggled with focus (later diagnosed as attention deficit disorder). I also struggled with insomnia, so was also extremely physically exhausted. I often asked for help but was instead accused of being lazy and insubordinate. This caused me to become depressed, unmotivated and added to my failing physical health. I felt my leadership and peers did not care. I believe I deserve an honorable character of service as I feel my leadership retaliated against my cry for help (reprisal) and I did not receive the support or care I desperately needed from them."

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

Based on a review of the applicant's in-service records, the applicant received services in the mental health clinic related to his insomnia during his time in service. The applicant's records reflect that he attended stress and lifestyle management group during his time in service but did not receive individual mental health session during his time in service and did not receive any mental health diagnoses during his time in service.

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

A review of the applicant's DD214 revealed the applicant was discharged with a General character of service due to misconduct with three years, five months' time in service. The applicant's records revealed a pattern of misconduct that persisted for the duration of his time in service.

A review of the applicant's in service records revealed the applicant received a diagnosis of insomnia during his time in service and was encouraged to change his lifestyle to improve his sleep quality; based on the available records the applicant exhibited low motivation to change his lifestyle and was tried on multiple medications. The applicant's records indicate the applicant's complaint of insomnia was robustly investigated and evaluated. There is no evidence the applicant exhibited or endorsed any clinically significant indicators of a mental health condition during his time in service. Further, it is unlikely a mental health condition would mitigate the most serious misconducts for which the applicant was discharged, including misuse of a government travel card and reckless driving.

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 found no evidence of inequity or impropriety.

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 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 "General," the narrative reason for separation shall remain "Misconduct," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the board president on 26 September 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)

