

<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT</b>	CASE NUMBER <b>FD-2023-00234</b>
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**SUMMARY:** The applicant was discharged on 12 May 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Other Than Honorable Conditions (UOTHC) discharge for Misconduct (Minor Infractions). 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 14 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 multiple Letters of Reprimand and a demotion action. His misconduct included: driving under the influence of alcohol, public intoxication, and resisting arrest.

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 he was separated for infractions that he had not yet gone to court for at the time of his discharge. Since his discharge the applicant went to court for the offenses and was found not guilty of the DUI, and the charges for public intoxication, resisting arrest, and failure to provide identification were dismissed for insufficient evidence. He contended since he was not convicted there was not a basis for his discharge or grounds for a General service characterization.

A review of the applicant's records revealed he had a DUI in Sep 2019. The civilian authorities retained jurisdiction of the case and his unit issued a Letter of Reprimand for the offense. In May 2021 he was arrested again for public intoxication, resisting arrest, and failure to provide identification to a police officer. Again, the civilian authorities retained jurisdiction and he was issued a second Letter of Reprimand, was administratively demoted, and discharged. The applicant submitted court documents as evidence he had not been convicted for any of the offenses.

After a thorough review, the DRB concluded that despite the fact the applicant was not convicted of the offenses that led to his discharge, did not mean the offenses did not occur. The applicant admitted to the conduct that led to both Letters of Reprimand, therefore, the DRB opined the misconduct occurred.

Additionally, there is also evidence in the record that the applicant failed to disclose he married a foreign national until he was undergoing a background investigation for his security clearance which resulted in his access being revoked. The DRB determined the applicant had a pattern of misconduct and concluded the negative aspects of his service outweighed the positive contributions he made during his Air Force career.

**FINDING:** The DRB voted unanimously to *deny* the applicant's request to upgrade his discharge characterization. The DRB also voted unanimously to *deny* changing the discharge narrative reason and 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 "UOTHC," the narrative reason for separation shall remain "Misconduct (Minor Infractions)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the board president on 15 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://afrbaportal.azurewebsites.us>

Attachment:  
Examiner's Brief (Applicant Only)