

SUMMARY:

The applicant was discharged on 28 December 2012 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General Discharge for Misconduct (Minor Infractions). The applicant appealed for an upgrade of his discharge characterization and a change to the discharge narrative reason.

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, multiple Letters of Reprimand and multiple Records of Individual Counselling. His misconduct included: Willfully failed to prepare for Explosive Ordinance Disposal training class; willfully failed to refrain from falling asleep during the Explosive Ordinance Disposal training class; Failed to obey a lawful order from an NCO by failing to work out; made a false official statement when asked whether or not he worked out. Was previously counseled for failing to properly utilize PT time; Failed to show for duty on time; Failed to show for duty at the appointed time; Failed practice PT test.

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 requested an upgrade so that he may utilize the GI Bill. He indicated that he was bullied constantly in service and was also dealing with multiple undiagnosed mental health issues that have now been confirmed post-discharge.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The Board understood the applicant's present service characterization renders him ineligible for Department of Veterans Affairs education benefits. However, this is not a matter of inequity or impropriety which would warrant an upgrade.

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 box for "other mental health" on the application. The applicant contended "In addition to near constant bullying during my time in service, I was dealing with several undiagnosed mental health issues that have been diagnosed since my separation. Since being discharged, I have been diagnosed with Dysthymia, Anxiety, Insomnia, ADHA, and Autism."

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

There is no evidence the applicant sought or received any mental health services during his time in service. A review of the available records revealed the applicant reported an extensive history of pre-service mental health conditions including depression and ADHD. These conditions are considered to have existed prior to service (EPTS) and are generally not considered under the intent of liberal consideration. There is no evidence of service aggravation beyond the natural progression.

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 (minor infractions) with two years, ten months, and twenty days' time in service.

There is no evidence the applicant sought or received any mental health services during his time in service and this is not requisite for determining the impact of the applicant's mental health condition. The applicant's records revealed the applicant exhibited and endorsed difficulty adjusting to the requirements of the military lifestyle.

Based on a review of the available records, and the evidence submitted by the applicant, the applicant's maladaptive behavior patterns and mental health condition were EPTS conditions and there is no evidence of service aggravation. The applicant submitted records from post service mental health evaluator that revealed the applicant's behavior of sleeping through classes existed prior to service and was as likely as not related to his EPTS patterns of behavioral learning habits. In the evidence submitted by the applicant, the applicant's post service provider documented in an evaluation "[the applicant] denied ever participating in Special Education resources or repeating a grade but reportedly struggled throughout school with focus and motivation. He reported passed "on test scores alone" as he primarily slept through his classes."

The applicant submitted his VA rating for insomnia as evidence in support of his claim. Regarding the applicant's concurrence with his VA diagnoses, the VA, 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 VA 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. At the “snapshot in time” of the applicant’s service, there is no evidence the applicant had a mental health condition that caused or mitigated the misconduct(s) which led to the applicant’s discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant’s condition does not mitigate his discharge, it does not outweigh his discharge.

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 (Minor Infractions),” 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)

