

SUMMARY: The applicant was discharged on 01 April 2020 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, 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 associated separation code, and a change to the reentry 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 28 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 a Letter of Reprimand for domestic violence.

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 returned from deployment with undiagnosed PTSD. He claimed he was falsely accused of domestic violence after an altercation with his spouse and that he was never convicted. He further contended he was discharged without treatment for PTSD or depression.

A review of the applicant's record revealed he was involved in two separate incidents of domestic violence against his wife. Both times police responded to the scene and documented injuries on his wife. He was directed to undergo marital counseling for the first incident and received a Letter of Reprimand for the second incident. The applicant was a Security Forces Airman and had his right to bear arms as part of his duties withdrawn. The command also initiated withdrawal of his Air Force Specialty Code. The command initiated discharge action recommending an Under Other Than Honorable Conditions (UOTHC) discharge, entitling the applicant to a board hearing. The applicant waived his right to a hearing on condition of receiving a General discharge. The waiver was accepted by the Separation Authority.

In his response to the discharge action the applicant claimed that his wife initiated the domestic incident by hitting and scratching him. He claimed he tried to calm her down, as well as defend himself. He does not admit to grabbing her by the throat, instead he stated he grabbed her shoulders. He departed the home and was later contacted by the local police after his wife reported the incident. The applicant's wife also

submitted a statement in response to the discharge action claiming she started the incident, and her husband did not intentionally try to hurt her. She also stated she didn't realize what an impact reporting the incident would have on the applicant's career and their family.

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 contend that a condition or experience may have excused or mitigated their misconduct or discharge?

The applicant checked the boxes for "PTSD," "Other mental health," and "Intimate partner violence/domestic violence" on the application. The applicant contended "I returned from deployment with undiagnosed PTSD/depression. I was wrongly accused of domestic violence after an altercation with my spouse. I was arrested and released days later due to mandatory state arrest laws. I was diagnosed with major depression/PTSD by unit mental health. I was discharged without full treatment and access to a discharge review board. I was never convicted."

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

A review of the available records revealed the applicant was referred to mental health services by the Family Advocacy Program after the applicant expressed increasing stress due to being notified that he was facing administrative separation. The applicant's in-service records revealed he initially declined mental health services after evaluation but later accepted services upon being notified that he would be administratively separated. He participated in outpatient medication management and a partial hospitalization program (PHP) until he was separated. A review of the available records revealed the applicant received the diagnosis, in service, of adjustment disorder.

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 (serious offense). A review of the available records revealed the applicant reported to post service providers that his PTSD symptoms onset originated from being falsely accused of domestic violence and the subsequent investigation, processing, and discharge. A review of the applicant's records revealed he was command referred on at least three occasions, at multiple installations, for allegations of intimate partner physical violence. There is no evidence or records a mental health condition caused or substantially contributed to the misconduct that led to the applicant's discharge.

4. Does that condition or experience outweigh the discharge?

Based on review of the applicant's records, his intimate partner dynamics and mental health conditions were known and fully considered by the applicant's command during the discharge process. No error was found in review of the applicant's records; thus the applicant's discharge is 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 to *deny* the applicant’s request to upgrade his discharge characterization, to change the discharge narrative reason and associated separation code, 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 and associated separation code shall remain “Misconduct (Serious Offense),” and the reentry code shall remain “2B.” The Air Force DRB (AFDRB) results were approved by the board president on 02 October 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)

