

SUMMARY:

The applicant was discharged on 26 May 2022 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 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 12 October 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 reentry 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 the notification memorandum. His misconduct included: on 13 Sep 21, was apprehended by police department for driving under the influence of alcohol; driving while blood was .22 grams per 100 ml of ethanol; apprehended by police department for driving on a suspended or revoked license; on 11 Jul 21, cited for failure to stay in one lane; cited for driving under the influence for driving under the influence of alcohol or drugs; cited for carrying a dangerous weapon under the influence of alcohol or drugs; driving while blood was .2 grams per 100 ml of ethanol; on or about 10 Jul 20, pulled over while driving vehicle for suspicion of driving under the influence.

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 to the character and narrative reason, as he served honorably during his nearly 12 years of active duty. He indicated that he had a problem with alcohol use due to undiagnosed major depressive disorder, which resulted in two DUIs and his eventual discharge. The applicant concluded that his current discharge is making it difficult for him to pursue a DoD civilian position.

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 may cause issues with employment, particularly in the DoD. 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 contended "During my near 12 years on active duty, I served honorably and had a very promising career ahead of me. Unfortunately, I acquired a problem with alcohol use during off duty time due to an undiagnosed major depression disorder. This led me to getting arrested for DUI on two occasions."

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

There is evidence the applicant received mental health services during his time in service. The applicant's records revealed the applicant was command referred to ADAPT. A review of the applicant's records revealed the applicant sought mental health services during his time in service related to relational difficulties, sexual dysfunction, and low mood.

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 characterization of service due to misconduct (serious offense) with eleven years, eight months, and twenty-seven days' time in service.

Based on the available in service and post service records it is as likely as not that the applicant's reported mood symptoms are induced or exacerbated by his pattern of maladaptive substance use. There is no evidence or records the applicant's mental health condition of depressed mood caused him to drive drunk on multiple occasions- leading to at least three (not two, as misrepresented by the applicant) law enforcement encounters. A review of the available records revealed the applicant endorsed a maladaptive pattern of substance use for the near duration of his time in service; the applicant's records reflect he continued to engage in maladaptive alcohol use in social settings despite his alcohol use causing him relational and legal problems which, in turn, negatively impacted the applicant's mood.

The board acknowledges that the applicant sought and received mental health and substance abuse services during his time in service for symptoms of low mood and relational problems; the severity of the applicant's multiple misconducts is not mitigated by the applicant's in service mental health condition.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated by the applicant's mental condition, the applicant's discharge is also not outweighed; the severity of the applicant's multiple misconduct is not outweighed by the applicant's in service mental health condition.

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 (Serious Offense),” and the reentry code shall remain “4D.” The Air Force DRB (AFDRB) results were approved by the board president on 1 November 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)

