

**SUMMARY:** The Applicant was discharged on 8 June 2020 in accordance with Air Force Instruction (AFI), 36-3207, *Separating Commissioned Officers*, with an Under Other Than Honorable Conditions discharge for Unacceptable Conduct. The Applicant appealed for an upgrade of their discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

The Applicant appeared and testified before the Discharge Review Board (DRB), without counsel, on 20 August 2024. No witnesses were present to testify on the Applicant's behalf.

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 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 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 contends the command did not follow Air Force Instruction; the discharge basis contained errors in fact, law and procedure. In addition, the underlying conduct is not congruent with other service members discharged under the same AFI. Specifically, the Applicant contends that the conduct specified as the basis for their discharge and character of service determination cannot meet the requisite standard for "serious misconduct." and does not satisfy the "could result in confinement for six months or more" clause of the serious misconduct definition. Lastly, the discharge is not based on other factors such as quality of service.

The Board determined that the Applicant did not provide a preponderance of evidence to support their claim of inequity or impropriety in their discharge. In this case, the Applicant pled guilty to misconduct and was charged under Article 133, UCMJ. The maximum amount of confinement for a violation of Article 133 is one year or "as prescribed" when the offense is similar to another specified Article of the UCMJ. In this case, the offense to which the Applicant pled guilty is most similar to assault consummated by a battery under Article 128, which has a maximum confinement of six months. As a result, the Board found that the Applicant's actions constituted serious misconduct and formed a proper basis for their discharge. The Applicant received a UOTHC service characterization defined in AFI 36-3206, *Administrative Discharge Procedures for Officers*, as "when separation is based upon one or more acts or omissions that constitute a significant departure from the conduct expected of service members." Therefore, the Board found the UOTHC characterization to be appropriate and congruent with other service members. Additionally, the Board found no evidence of impropriety in the discharge as the Applicant waived their right to a Board of Inquiry and acknowledged they could be separated with an UOTHC service characterization. Lastly, the Board determined that the command took into account the Applicant's quality of service; however, the Applicant's misconduct outweighed their quality of service.

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 their 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 seek relief before the Air Force Board for Correction of Military Records (AFBCMR) in accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*.

**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 “Under Other Than Honorable Conditions,” the narrative reason for separation shall remain “Unacceptable Conduct,” and the reentry code shall remain “N/A.” The DRB results were approved by the Presiding Officer on 23 September 2024. 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)