

SUMMARY:

The applicant was discharged on 10 May 2013 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.

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 an Article 15, multiple Letters of Reprimand, and a Letter of Counseling. His misconduct included: Disrespected a superior officer by refusing to stop chewing gum, by leaning back in his chair and putting his foot on the desk while being interviewed by a superior officer, and by willfully refusing to sit at a position of attention after being told to do so; disrespectful in language to an SNCO by stating "I'm being fucked with", "I won't be here for them to fuck with me," "I don't give a shit," "Take all my stripes, I don't care" or words to that effect; Booked patients during inappropriate timeframes after receiving training and guidance on procedures; Scheduled appointments that were outside of access to care standards, after being trained that he must follow these standards; Exited the base in his vehicle at a rate of speed above the posted limit and nearly struck two NCOs conducting barrier checks.

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 because he believed that his service was honorable. He explained that during his second year of service, he was diagnosed with ADHD and later general anxiety. He continued to say that the prescribed medications initially helped but their effectiveness declined over time. The applicant indicated that despite seeking help from mental health and sharing his concerns with supervision and command, his performance suffered due to increased stress and uncontrolled symptoms.

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 determined that the negative aspects of the applicant's service outweighed the positive contributions he made during his Air Force career. It concluded that there was no nexus between the applicant's mental health condition and the misconduct that resulted in the discharge. The discharge was deemed appropriate.

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 boxes for "PTSD" and "other mental health" on the application. The applicant contended in his personal statement to the Board "In my second year of service I was diagnosed with adult ADHD (combined type) and later with general anxiety. Initially, my prescribed medications helped manage my symptoms, but their effectiveness declined over time, impacting my performance. Despite seeking help from mental health providers, my performance suffered due to increased stress and uncontrolled symptoms."

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

A review of the applicant's in-service records revealed the applicant sought and received mental health services during his time in service. The applicant's records revealed the applicant reported symptoms of anxiety, specifically in social settings, social awkwardness, difficulty with concentration. The applicant's records revealed the applicant received therapy and medications during his time in service and reported the symptoms to be controlled by medications although he continued to intermittently seek supportive therapeutic services. There is no evidence the applicant exhibited or endorsed any clinically significant features of PTSD during his time in service. There is no evidence the applicant received a diagnosis of PTSD during his time in service.

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 three years, eleven months, and three days' time in service. A review of the applicant's discharge package revealed the applicant's commander noted the applicant to be disrespectful and not receptive to corrective action. The applicant's commander noted in the discharge recommendation "[The applicant] has demonstrated that he does not value Air Force Core Values by his disrespect for a superior officer and his First Sergeant. He has had to be disciplined several times for failing to follow standards when scheduling appointments and also received a Letter of Reprimand for speeding and almost hitting two SFS NCOs. His infractions have undermined the ability of his chain of command to place trust or confidence in him to live by the Air Force Core Values. [The applicant's] disrespect, refusal to follow clear commands, foul language, and cavalier attitude towards those superior in rank and position to him is prejudicial to the good order and discipline in my squadron." The applicant's medical records revealed the applicant sought treatment for symptoms of difficulty focusing, poor concentration, socially awkward behavior, and social anxiety. The applicant's records revealed the

applicant received a diagnosis, in service, of Attention Deficit Hyperactivity Disorder (ADHD). There is no evidence the applicant received the diagnosis of PTSD during his time in service. There is no evidence or records the applicant endorsed any clinically significant indicators of PTSD during his time in service. The applicant's records reflect that he requested to terminate mental health services in April 2012 as he felt he had acquired adequate coping skills to effectively manage his social anxieties. The applicant's records revealed the applicant was intermittently compliant with ADHD medications. A review of the misconduct that led to the applicant's discharge revealed that the applicant denied committing some of the misconducts for which he was accused, and it is unlikely that a mental health condition would have caused the most serious misconduct that led to the applicant's discharge including willfully disrespecting senior leadership, refusing to follow the orders those senior leaders, and also the misconduct of speeding that endangered SFS NCOs. There is no evidence of a mitigating nexus between the applicant's in service mental health conditions and the misconducts that led to his discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated, it is also 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 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 3 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)



