

**SUMMARY:**

The applicant was discharged on 04 May 2015 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, a change to the discharge narrative reason, 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 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 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 indicated that he probably had mental health issues while in service that he did not know about. He believed that the untreated mental health issues were a direct cause of the misconduct, which eventually led to the discharge. The applicant highlighted that he is now 100% service connected through the VA.

Upon review of the applicant's service record, the Board was not able to find any documentation regarding the discharge. The board relies on the presumption of regularity in regard to government affairs in a circumstance such as this. However, the Board determined in this case, that the severity of the applicant's mental health condition overcomes this presumption. Being that the discharge narrative is for minor infractions, the board opined that no misconduct within that definition would be severe enough to warrant the General discharge when considering the totality of the circumstances.

**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 "I probably had mental issues when I was in the service, but I did not know about. So I was acting out due to my untreated mental issues. I believe that was the direct cause of misconduct charge from the minor infraction incident, and it led to Under Honorable Condition (General) discharge."*

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

*The applicant's records revealed the applicant was seen in the mental health clinic at least weekly beginning in August 2014 through the time of his discharge in May 2015 due to reported symptoms of anxiety, inability to focus, and insomnia. The applicant's records revealed the applicant reported his symptoms of anxiety and insomnia resolved with medication treatment.*

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 one year, eight months, and fifteen days' time in service. The applicant's discharge package was not available for review. A review of the applicant's available in service and post service records revealed the applicant endorsed and was receiving healthcare for a mental health condition during his time in service that may have impaired in his ability to perform his duties.*

4. Does that condition or experience outweigh the discharge?

*The Board determined that the mental health condition outweighs the discharge character received, and opined that an Honorable character is more appropriate.*

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.

**FINDING:** The DRB voted unanimously to **approve** the applicant's request to upgrade his discharge characterization. However, it voted unanimously to **deny** a change to the discharge narrative reason. Lastly, the reentry code was changed to 2C in order to match the change of Character.

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 inequitable. Therefore, the awarded characterization of service shall change to "Honorable," the narrative reason for separation shall remain "Misconduct (Minor Infractions)," and the reentry code shall change to "2C." The Air Force DRB (AFDRB) results were approved by the board president on 01 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)

