

SUMMARY: The applicant was discharged on 8 January 2013 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for a Pattern of Misconduct. The applicant appealed for an upgrade of his discharge characterization and a change to the 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 16 November 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 reenry 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 multiple Article 15s and a Letter of Reprimand. His misconduct included: underage drinking, dereliction of duty, drunk and disorderly, and disobeying orders.

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 had an undiagnosed mental health condition while serving in the Air Force and also was battling alcoholism. He claimed he had an off-base DUI as well as other alcohol related misconduct that led to his discharge. He further claimed he had been in several alcohol rehabilitation programs since his discharge and is now sober. He submitted his Department of Veterans Affairs (DVA) disability rating letter and has been diagnosed with mixed anxiety and depressed mood with alcohol use disorder and adjustment disorder. He requested the upgrade based on his acceptance of responsibility, remorse, growth from immaturity, decade of rehabilitation, and his current character and reputation. He also sought an upgrade for access to educational benefits.

A review of the applicant's records revealed he had multiple alcohol related incidents of misconduct. He was punished twice under Article 15 and also reprimanded. Furthermore, he was charged with an off-base DUI. He was subsequently administratively discharged for a Pattern of Misconduct. He submitted character reference letters that attested to his journey to sobriety and his desire to continue his education so that he may help others.

LIBERAL CONSIDERATION:

Due to the applicant's contention of a mental health condition, 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 box for "other mental health" on the application. The applicant contended "When I was discharged in January 2013 for the DUI in Hawaii, I was suffering from Chronic Adjustment Disorder with Mixed Anxiety and Depressed Mood with Alcohol Use Disorder. The condition was diagnosed, and I was granted service connection for the mental disorder in September 2021. This condition existed in service."

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

A review of the available records revealed the applicant received mental health services after he was charged by civilian authorities with a DUI. The applicant's records also indicated he was command referred to ADAPT on at least three occasions during his time in service due to maladaptive alcohol use. Prior to the applicant's DUI, he denied any mental health symptoms. There is no evidence the applicant endorsed or exhibited any clinically significant indicators of a mental health condition prior to his third ADAPT referral at which time he also began receiving mental health services. The applicant received the diagnosis, in service, of adjustment disorder. The applicant's records revealed he endorsed stressors of legal problems and felt isolated in Hawaii.

3. Does that condition or experience actually excuse or mitigate the discharge?

A review of the applicant's DD214 revealed he was discharged with an Under Honorable Conditions (General) character of service due to a pattern of misconduct. A review of the applicant's service records revealed documented alcohol related misconduct that occurred less than four months after his enlistment and continued for the duration of his time in service with increasing severity. A review of the applicant's in-service mental health records revealed he denied any mental health symptoms prior to, at the time of, or after his first two alcohol related incidents. After the applicant's third alcohol related misconduct, the applicant reported stressors including a recent breakup with his girlfriend due to his PCS and perceived lack of support or friends at his new base. The applicant's records revealed he received the diagnosis, in service, of adjustment disorder subsequent to endorsing difficulty coping with his new onset of legal issues. He had feelings of isolation due to dealing with his occupational and legal stressors by himself in Hawaii. Based on the available evidence, the applicant's pattern of maladaptive alcohol use existed prior to the onset of his endorsed mood symptoms, which occurred after his maladaptive alcohol use caused his misconduct. There is evidence the applicant received mental health services during his military legal proceedings. While military legal proceedings and PCS can be stressful, they do not constitute mental health conditions that mitigated the misconduct that initiated the legal proceedings.

Regarding the applicant's concurrence with his DVA rating, the DVA, operating under a different set of laws than the military, is empowered to offer compensation for any medical or mental health condition with an

established nexus to military service, without regard to its impact on a member's fitness to serve, the narrative reason for release from service, or the length of time that has transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given condition may improve or worsen over the life of the veteran. At the "snapshot in time" of the applicant's service, there is no evidence a mental health condition caused or mitigated the misconduct which 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 and to change the discharge narrative reason. The DRB also voted unanimously to **deny** changing 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 "Pattern of Misconduct," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Board president on 30 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)