

SUMMARY:

The applicant was discharged on 25 September 2019 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 her discharge characterization and a change to the discharge narrative reason.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, via video teleconference using Zoom on 17 January 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 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. Her misconduct included: Failed to follow instructions given by an NCO; Hair was out of regulation then lied to an NCO about being given a waiver; Late to an assigned duty; on divers occasions, was disrespectful to an NCO during a disciplinary proceeding; Without authority, failed to go at the time prescribed to the appointed place of duty.

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 believes that her discharge was inequitable because it was a single incident. She explained that after weeks of harassment by leadership, she went to mental health and filed an IG complaint due to the constant lack of professionalism, which was hindering her ability to perform her job effectively. She indicated that she suffered from anxiety and depressed mood. The applicant stated that she received an Article 15 for missing an appointment, which was the basis for her separation. She concluded that it is her belief that her toxic leadership induced this discharge for a single isolated event, and a General discharge is not justified for the actions.

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 noted that it was not a single instance that resulted in the discharge, but rather a pattern of misconduct that started shortly after arrival at her first base. The Board understood that the applicant felt her squadron leadership was harassing her and lacked professionalism, however, the IG complaint filed by her was not substantiated. The discharge received by the applicant was

deemed to be appropriate.

LIBERAL CONSIDERATION:

Due to evidence of a mental health diagnosis and/or experiences of sexual assault or sexual harassment and/or records documenting that one or more symptoms of mental health conditions and/or experiences of sexual assault or sexual harassment existed/occurred during military service found in the applicant's 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, psychiatrist or social worker with training on mental health issues connected with PTSD or TBI or other trauma. 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 PTSD; 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 "I believe my discharge was inequitable due to me being discharge because of a single offense. After weeks of harassment by my senior leadership to include my first sergeant, supervisors, and commissioned officer, I went to mental health and filed an IG complaint due to the constant lack of professionalism that hindered my ability to perform my job effectively. I ultimately [sp] suffered anxiety and depressed mood which [sp] impacted my ability to perform my duties tremendously."

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

A review of the applicant's records revealed the applicant requested to be evaluated by mental health after being notified of her discharge. The applicant reported to her in-service providers that she was experiencing distress due to her workplace and this was causing the symptoms of poor sleep and a decrease in appetite. There is no evidence the applicant received the diagnosis of PTSD during her time in service. There is no evidence or records the applicant exhibited or endorsed any clinically significant indicators of PTSD or any other mental health condition during her 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 one year, eight days' time in service. The applicant contended her discharge was due to a single isolated incident of missing a medical appointment. The applicant's discharge package revealed the applicant was discharged due to multiple incidents of misconduct for which the applicant received an LOC, two LORs, and an Article 15. The applicant's misconduct included failing to follow directions from a NCO, having hair out of regulation, lying about hair out of regulation, being late to an assigned duty, and being disrespectful to an NCO during a disciplinary proceeding. There is no evidence a mental health condition caused or contributed to any of the misconducts that led to the applicant's discharge.

The applicant submitted her VA rating as evidence in support of her contention. The VA, 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 VA 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 the applicant had a mental health condition that caused or mitigated the misconduct(s) which led to the applicant’s discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant’s discharge is not mitigated, the applicant’s discharge 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 her 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 “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 Presiding Officer on 18 January 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://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

