

## AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT

**SUMMARY:**

The applicant was discharged on 14 January 2021 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Other Than Honorable Conditions discharge for Pattern of Misconduct. 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 appeared and testified before the Discharge Review Board (DRB), with counsel, via video teleconference using Zoom on 05 December 2023. 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 and a Letter of Counseling. His misconduct included: Failed to refrain from engaging in unprofessional relationships by having intercourse with a direct subordinate; Failed to refrain from engaging in unprofessional relationships by, on divers occasions, making inappropriate sexual comments to a direct subordinate, talking about sexual preferences, penis size, sexual relationships with women other than his wife, and sex life with spouse; Failed to refrain from engaging in unprofessional relationships by, on divers occasions, making inappropriate sexual comments to a direct subordinate, talking about his sex life, including stating that he ejaculated in his wife for months but she did not get pregnant, and asking the Airman about her own sex life; Failed to refrain from engaging in unprofessional relationships by, on divers occasions, showing sexually inappropriate memes to, and talked about his sex life with, several of his subordinates; As a married man, wrongfully engaged in extramarital conduct by having sexual intercourse with an Airman, an person he knew was not his spouse and that such conduct was prejudice of good order and discipline in the armed forces; negligently failed to meet a suspense and properly follow guidance to review all evaluations and make appropriate corrections; was derelict in the performance of duties in that he negligently failed to complete a Manpower data request, as it was his duty to do so.

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; Failed to complete a manpower data request as tasked by a superior officer.

The applicant, through counsel indicated that there was an error in Command discretion. They also indicated that they would submit equity upon getting a hearing date. In the Personal Appearance, through sworn

testimony, the applicant and counsel indicated that he took responsibility for his actions and acknowledged that he made mistakes. They highlighted that the applicant was initially recommended to be retained and have Probation and Rehabilitation (P&R), but the separation authority decided against this recommendation. Lastly, they contended that the totality of his career warranted an Honorable discharge.

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 administrative discharge board recommended the applicant be retained and he be offered P&R, which was not legally consistent, and further, not authorized in accordance with applicable regulations. Therefore, the Board's Legal Advisor re-convened and instructed the members on the legal procedure for the Discharge Board to recommend probation and rehabilitation. The board re-issued their findings and recommended a UOTHC and probation and rehabilitation. Although the Board recommended P&R, the separation authority is not compelled to make that decision, and therefore made the decision at his own discretion to deny P&R. Additionally, the Board considered the applicant's characterization of discharge. Under Other Than Honorable Conditions Discharge: when separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of Service members, or when separation is based upon one or more acts or omissions that constitute a significant departure from the conduct expected of Service members. Factors that may be considered include but are not limited to; abuse of a special position of trust; disregard by a superior of customary superior-subordinate relationships; acts or omissions that endanger the security of the United States or the health and welfare of other Service members. The applicant's misconduct falls into the description of this characterization; therefore, the Board determine that that discharge received, was appropriate.

**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 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 Discharge," 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 6 December 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://afrbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)