

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT

SUMMARY:

The applicant was discharged on 06 January 2012 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 and a change to the discharge narrative reason.

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 multiple Article 15s, multiple Letters of Reprimand, and a Letter of Admonishment. His misconduct included: Absented himself from place of duty, third time late in a month; Absented himself from place of duty on two occasions; Made a false official statement to his supervisor that he services dress uniform was at the cleaners; Failed to report for Commander's Calls on time; Failed to report for physical training on time and failed to report to remedial PT; Failed to report for physical training and failed to report for duty on time.

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, through counsel, contended that there was an error and injustice in his discharge because was suffering from and being treated for obstructive sleep apnea, that resulted in the misconduct and subsequently the discharge. They indicated that command knew of the sleeping issues, and it was even explained in the rebuttals for the paperwork he received. The applicant and counsel concluded that the member should have been reviewed by the PEB, MEB, or referral to the DES, but instead, he was administratively discharged. Due to this, they requested that the injustice be corrected by upgrading to an Honorable discharge.

During the personal appearance, the applicant presented sworn testimony. He stated that he feels he deserves an Honorable because, if his diagnosis would have been treated more seriously, he would've received Disability Evaluation System processing instead of being discharged. Additionally, he felt the service he gave was honorable.

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 applicant's in-service sleep study revealed a conclusive negative result for sleep apnea 5 months prior to discharge. The applicant's hypersomnia was found to be likely from poor sleep hygiene (habits and behaviors) by the applicant. Furthermore, 6 of the 9 infractions that resulted in the discharge could not have resulted directly from a sleep disorder, either per the applicant's previous response to the infraction, or by the nature of the offense. When questioned about this fact, the applicant through counsel agreed, but attributed this misconduct to brain fog and forgetfulness caused by obstructive sleep apnea, a disorder not diagnosed in the applicant until 7 years after discharge and, per the applicant's testimony, found not to be service connected by the Department of Veterans Affairs (VA). After thorough consideration of the facts and the totality of the circumstances, the DRB determined that the discharge the applicant 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 "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 Discharge Review Board President on 7 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://afrbportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)