

**SUMMARY:** The applicant was discharged on 23 January 2023 in accordance with Air Force Instruction 36-3211, *Military Separations*, with an Under Honorable Conditions (General) discharge for Misconduct (Minor Infractions). The applicant appealed for an upgrade of his discharge characterization, a change to the separation code, 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 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 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 multiple Letter of Counseling and Reprimand. His misconduct included: failure to obey orders and technical school rules on multiple occasions and failure to complete coursework assignments.

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 was sexually assaulted and was not given proper treatment. He claimed things snowballed and he was discharged for minor infractions. He further claimed he was diagnosed by the Department of Veterans Affairs (DVA) with PTSD related to the sexual assault. He submitted a disability rating from the DVA and has been given a 70% disability rating for unidentified condition(s).

A review of the applicant's record revealed he had multiple incidents of misconduct for violating phase program rules at his technical school. He also was twice administratively counseled for not completing required homework assignments. The applicant was administratively reprimanded and punished under Article 15. In his response to the discharge action, he claimed he was struggling with ADHD and trauma issues that caused his misconduct. Furthermore, he claimed the lack of available mental health resources at his installation contributed significantly to his erratic and disruptive behavior.

**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 boxes for "PTSD" and "sexual assault/harassment" on the application. The applicant contended "I was sexually assaulted and not given proper treatment during my time at DLI. The medical professionals were severely understaffed so I fully understand, but unfortunately things snowballed out of control and I was kicked out for minor infractions. I discussed my case with the Deputy SARC and had my case examined by the VA after my discharge. Upon viewing my evidence, it was determined that I had PTSD due to this sexual assault as proven by the 70% disability letter I have attached. I humbly ask given the circumstances that the characterization of my discharge is upgraded to an Honorable Discharge."*

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

*A review of the applicant's medical and mental health records revealed he sought and received mental health services during his time in service related to his request to be evaluated for ADHD. The applicant's medical records revealed he reported an experience, in service, of sexual assault.*

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

*A review of the applicant's DD214 revealed he was discharged with a general character of service due to misconduct (minor infractions). The applicant exhibited a pattern of misconduct during his time in service including failing to reside in his assigned dormitory, curfew violations, phase violations, and multiple instances of failing to complete homework. Initially, the applicant stated he did not seek mental health services because he did not want his command to think there was something wrong with him. In a later response to misconduct, the applicant stated he was unable to obtain mental health services on the installation and this contributed to his disruptive behavior. Lastly, in the applicant's request for relief to the Discharge Review Board he stated the medical professionals were understaffed and he was kicked out of the Air Force. The applicant's mental health records revealed he sought and received services, including ADHD testing upon his request and all cancellations or re-schedules were at the request of the applicant. No evidence was provided by the applicant that his military sexual trauma caused or contributed to this misconduct. The applicant did not provide any clarifying information or testimony about his in-service experience of military sexual trauma, such as when the experience occurred or the impact this experience had on his mental health or ability to complete his military duties.*

*Based on the available evidence and records, the applicant's mental health condition as likely as not developed post-service. 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 for 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. Based on a review of the available records, there is no evidence a mental health condition or the applicant's in service experience of military sexual trauma caused or mitigated the misconduct that led to his discharge.*

4. Does that condition or experience outweigh the discharge?

*Because the applicant's discharge is not mitigated, his 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 his discharge characterization, to change the separation code, and to change the reentry code. The DRB also voted unanimously to **deny** changing the narrative reason.

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 "Misconduct (Minor Infractions)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Board president on 1 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)