

**SUMMARY:**

The applicant was discharged on 17 December 2021 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, 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 discharge narrative reason, 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 30 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 multiple Letters of Reprimand and multiple Letters of Counseling. His misconduct included: Failed a dorm inspection; Failed to turn in CDCs on time; Informed the manufacturer that he did not receive the product and was refunded the money. However, he did receive the product and resold it; Failed to be at work on time; Failed to go to his appointed place of duty; Failed to go to his appointed place of duty and made a false official statement about his location; Failed to go to his mandatory appointment and was absent without leave.

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 stated that his service was going great until he started having physical medical issues and had to be retrained into another career field. On top of his physical medical issues, the applicant stated he was learning a new job and did not pay attention to his mental health. He began to acknowledge his self-care and mood changes and decided to seek mental health services. Because COVID protocols were still in place, his in-person visits were limited to once a month. After a month, he felt like he needed more urgent help or something bad might happen. He reached out again to mental health services, and it resulted in 8-weeks of outpatient treatment. The applicant stated he felt the treatment was the best thing for him, but upon his return to the base and work, everything was different. He stated that he felt like he was being treated different and coworkers resented him because his extended absence was during a period when office manning was low. When he voiced his concerns with leadership, he felt they didn't address it due to his mental health issues. The applicant indicated months later he reached a breaking point and was sent to an

inpatient mental health facility for 10-weeks. He stated that after his release, he was given a LOR by his commander for missing an appointment, to which the applicant rebutted that he was at mental health that whole day. Nonetheless, the commander upheld the LOR and also served the applicant with a notification for discharge due to him having 3 LOCs and 3 LORs. The applicant requested an upgrade so that he may use the GI Bill, pursue a bachelor's degree and apply to the FBI.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. Evidence in the record indicates that the applicant's command was fully aware of the applicant's mental health issues, and fully considered them during the discharge process. The discharge received by the applicant was deemed appropriate.

### **LIBERAL CONSIDERATION:**

Due to evidence of a mental health condition found in the applicant's medical 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, 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 have a condition or experience that may excuse or mitigate the discharge?

*The applicant checked the box for "other mental health" on the application. The applicant contended "[e]verything was going great until I started having physical medical issues. Since I was on flying status as an Air Traffic Controller these physical issues prevented me from doing my job which eventually led to me getting medically retrained to a Dental Assistant. At the time I was going through the struggles of still experiencing physical issues and having to learn a brand-new job an way of life which put my mental health on the back burner."*

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

*The applicant stated in his personal statement included with his application "in early 2021 I reached out to the Mental health clinic at Laughlin AFB as everything from my self-care to my mood had changed." The applicant records revealed, contrary to the applicant's statement, that he was referred upon request to mental health during his cross-training physical exam in 2019 after reporting symptoms of sleep difficulty. The applicant no showed to three consecutive appointments. There is no evidence the applicant contacted, or attempted to contact the mental health clinic again until the end of July 2021 at which time he requested mental health services related to interpersonal difficulties with his leadership and coworkers along with past suicidal ideations. The applicant's records revealed the applicant received off-base partial hospitalization services, off-base inpatient service, but declined any on base mental health services. The timeline of services received as stated by the applicant in his personal statement is contradictory to chronology available for review in the applicant's medical records. The applicant received the diagnoses, in service, of depressive disorder and unspecified personality disorder.*

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

*The applicant's records revealed that although the applicant was enrolled in partial hospitalization and inpatient hospitalization during his time in service, the providers consistently noted the applicant to be minimally participative and generally non-adherent to treatment recommendations in addition to unwilling*

*to engage in any behavioral change.*

*The applicant's in-service providers opined that while the applicant did exhibit significant depressive symptoms, he also demonstrated problematic behaviors and personality traits (i.e. actively defied or refused to comply with requests from authority figures or with rules, was easily annoyed/irritated per his own report, demonstrated anger and resentment in his actions and behaviors, argued with authority figures, and appeared to demonstrate spiteful and vindictive behaviors when he could not get what he wants) that negatively impacted his social and occupational functioning.*

*There is evidence the applicant exhibited and endorsed features of a personality disorder during his time in service. The applicant's personality disorder traits likely caused his behavioral and misconduct issues in service and are considered incompatible for military service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. This condition may explain the applicant's misconduct, but it does not mitigate the misconduct. Further, it is unlikely that any mental health condition would mitigate the applicant's misconduct of larceny, or the applicant's misconduct of willfully making false statements.*

*The applicant submitted his VA rating decision as evidence in support of his claim. 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's in-service mental health condition of depression caused the misconducts that led to his discharge. Based on a review of the available records, the applicant's personality disorder traits likely caused his behavioral and misconduct issues in service and are considered incompatible for military service. This condition may explain the applicant's misconduct, but it does not mitigate the misconduct.*

4. Does that condition or experience outweigh the discharge?

*Based on review of the applicant's records, the applicant's mental health conditions were known and fully considered by the applicant's command during the discharge process. 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 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 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 13 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)