

**SUMMARY:**

The applicant was discharged on 01 February 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 their 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 19 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 two Article 15s, and two Letters of Reprimand. Their misconduct included: Driving under the influence; Failure to go to his appointed place of duty (3x); providing a false official statement; and failure to report for the mandatory wing run- and failure to report to the duty section 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 an error in judgment by their chain of command in discharging them without any opportunity for rehabilitation. They pointed that the basis of the discharge was grounded in 4 months of misconduct, coinciding with significant family issues. The applicant resorted to self-medication, leading to a DUI and subsequent loss of driving privileges. The applicant expressed experiencing depression and suicidal ideation, feeling like a "pariah." They stated that the commander didn't assess their character before initiating administrative separation procedures.

The Board found that the applicant's command had provided plentiful support and time for rehabilitation to the applicant. Despite prior misconduct, the command opted for correction measures and referrals to the Alcohol and Drug Abuse Prevention Treatment program to provide aid to the applicant instead of taking a harsher approach. It was also noted that there were discrepancies between the applicant's account and their record after service. Ultimately the Board found no impropriety or inequity in the discharge.

### **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, through counsel, contended the applicant's chain of command made a material error of discretion by discharging him without giving him a meaningful opportunity to overcome his incidents of misconduct. The applicant, through counsel, also contended "The applicant's mental health deteriorated to the point that he experienced suicidal ideations and he felt as if there was no one in his unit he could ask for help."*

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

*A review of the available records revealed the applicant was command referred to ADAPT on two occasions due to maladaptive alcohol use and received inpatient, partial hospitalization, and outpatient substance use services during his time in service. The applicant's records revealed the applicant was referred to mental health for supportive counseling services during his time in ADAPT and received the diagnoses in service of alcohol dependence and adjustment disorder.*

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 two years, six months, and six days time in service.*

*The applicant, through counsel, contended the applicant was given insufficient time to overcome and demonstrate rehabilitation from his maladaptive behavior. A review of the applicant's records revealed the applicant's maladaptive alcohol use and associated misconducts escalated in severity after a nearly year long course of treatment in which the applicant stated to his command he was abstaining from alcohol use despite reporting to ADAPT providers multiple relapses.*

*Based on the available records, there was no nexus between the applicant's pattern of maladaptive alcohol use and an underlying mental health condition, nor did the applicant contend such. The applicant's in-service records revealed he was command referred to ADAPT less than six months after his enlistment for maladaptive alcohol use and again was command referred to ADAPT less than a year later subsequent to the applicant receiving a DUI. The applicant's pattern of misconduct, per the available records, persisted through his discharge, despite the applicant's statement in his response to his referral EPR "Since receiving the DUI, I have taken several steps to ensure nothing of this nature ever occurs again... In order to mitigate the situation to the best of my ability, I have chosen to abstain entirely from alcohol, attend AA meetings as often as possible, and attend ADAPT weekly...My poor choices resulted in a DUI...I have absolutely no intention of letting any other kind of alcohol related incident happen again, nor do I intend to put myself into a situation where another incident may occur. I can only hope that this letter shows the sincerity of my apology."*

*There is no evidence a mental health condition caused or substantially contributed to the misconduct that led to the applicant's discharge.*

4. Does that condition, or experience outweigh the discharge?

*Because the applicant's discharge is not mitigated it 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 their 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 20 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)