

SUMMARY:

The applicant was discharged on 05 October 2020 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) Discharge for Unsatisfactory Performance. The applicant appealed for an upgrade of his discharge characterization.

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 an Article 15, multiple Letters of Counseling, and multiple academic counseling memorandums. His misconduct included: Failed Qual 1, Block 2, Objective 3C of training; Failed Qual 1, Block 2, Objective 12E of training; Failed Qual 2, Block 1, Objective 9A of training; Rode bus without prior approval and did this for several days before being caught; Missed accountability for PT due to sleeping in; Failed to obey the public health emergency order 1A by, on divers occasions, wrongfully leaving base.

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 he acted out and could not perform his duties because of his anxiety and depression. He indicated that he was not diagnosed until after separation.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. There is evidence that the applicant had difficulty adjusting to the military lifestyle and exhibited poor coping skills. This may explain his misconduct, but it does not constitute a mental health condition and does not mitigate the misconduct that led to the applicant's discharge.

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 “I acted out and could not perform my duties because of anxiety and depression. This medical condition was not diagnosed until after separation from service.”

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

The applicant’s records revealed the applicant was evaluated by mental health on two separate occasions during his time in service. The first instance revealed the applicant did not have any disqualifying mental health conditions related to the applicant’s reported fear of heights and was returned to duty. The second instance reveal the applicant reported dissatisfaction with the Air Force and dislike of the rules and structure.

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 characterization of service due to unsatisfactory performance with eight months, twenty-nine days’ time in service. The applicant received an article 15, two LOCs, and 3 Academic Counselings during his time in service. A review of the applicant’s records revealed the applicant reported a fear of heights that did not meet criteria for phobia. His records also revealed the applicant made it known he was dissatisfied with his choice to join the Air Force and did not want to continue. There is evidence the applicant exhibited and endorsed difficulty adjusting to the military lifestyle and poor coping skills which may explain the applicant’s misconduct, but it does not constitute a mental health condition and does not mitigate the misconduct(s) that led to the applicant’s discharge.

Regarding the applicant’s concurrence with his VA rating, 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 for 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. The applicant submitted evidence of his re-evaluations in which his combined rating increased from 10% in 2020 to 40% in 2021 and increase again to 80% in 2023. At the “snapshot in time” of the applicant’s service, there is no evidence the applicant’s reported mental health condition of fear of heights caused or mitigated the misconduct(s) which led to the applicant’s discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant’s discharge is not mitigated by a mental health condition, 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 “Unsatisfactory Performance,” 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)