

SUMMARY:

The applicant was discharged on 08 November 2016 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 multiple Letters of Reprimand and multiple Letters of Counseling. His misconduct included: On 7 April 2016, failed initial CDC course exam by scoring 47%, while passing score is 65%; On 30 August 2016, failed CDC course exam a second time by scoring 62%, while passing score is 65%; Failed to go to appointed place of duty, the fitness improvement program; On three occasions, failed to go to appointed place of duty, the fitness improvement program; Failed Air Force Fitness test; Failed to go to appointed place of duty, mock fitness assessment; Failed Air Force fitness assessment; Failed to provide a copy of the fitness profile, as directed by supervisor.

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 the primary reason for his separation was out of his control. He explained that he was performing the job for years prior to failing the tests. The applicant continued to explain that he was in an accident and suffered a TBI prior to studying for the CDCs and taking the tests. He stated that he was unable to sit and focus and was unable to comprehend what he was studying or being taught. He indicated that he constantly suffered from headaches and vision changes and later found out this was due to the accident. The applicant concluded that this request was made so that he can use the GI Bill to try college again.

After thorough consideration and an advisory from the Board's medical professional, the DRB determined that the Traumatic Brain Injury (TBI) mitigated most of the misconduct that resulted in the applicant's administrative discharge. Additionally, it opined that any misconduct not mitigated by the TBI was minor in

nature and would not have resulted in a General Discharge alone. Therefore, the Board determined that Honorable is the most appropriate characterization.

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 boxes for "TBI" and "other mental health" on his application. The applicant contended "I was given a general discharge under honorable conditions but my primary reason for separation was out of my control. I was discharged for failing to pass my CDC test but I was performing the job for years before failing the tests. I got in a motor vehicle accident while I was in the Air Force in December 2015. After the accident, I was unable to sit and focus on studying for the Career Development Course Exam. My mind would always feel numb and I would listen but wouldn't be able to understand /comprehend what anyone was saying to me or what I was studying. I constantly suffered from headaches and vision changes which I found out later after diagnosed was from migraines as a result of my motor vehicle accident. I would like to request a discharge upgrade so I can use the GI Bill to go back and try college again."

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

A review of the applicant's records, there is evidence the applicant was diagnosed with a concussion subsequent to a motor vehicle accident during his time in service. There is no evidence the applicant sought or received any mental health services during his time in service.

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 service characterization due to unsatisfactory performance with two years, three months, four days' time in service. A medical review of the applicant's records revealed there was evidence the applicant experienced symptoms related to TBI during his time in service that may mitigate his primary basis for discharge, unsatisfactory performance. The medical review indicated the applicant's symptomology was consistent with his reported diminished ability to study and retain information vital to the passage of exams. The medical review opined however, the applicant's secondary basis for discharge could not be accounted for by the applicant's reported symptoms of TBI, including tardiness, failure to go, fitness failures, which occurred prior to and after the applicant's experience of TBI but opined that these misconducts would not, in and of themselves, constituted a basis for a general discharge. There is no evidence a mental health condition caused or mitigated the misconducts that led to the applicant's discharge.

4. Does that condition or experience outweigh the discharge?

In considering the totality of the applicant's service and his condition of TBI during his time in service, there is evidence the applicant's character of service may be outweighed by the impacts of his concussion.

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.

FINDING: The DRB voted unanimously to **approve** the applicant’s request to upgrade his discharge characterization. However, it voted unanimously to **deny** any change to the discharge narrative reason and 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 inequitable. Therefore, the awarded characterization of service shall change to “Honorable,” the narrative reason for separation shall remain “Unsatisfactory Performance,” and the reentry code shall change to “2C.” 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)