

**SUMMARY:**

The applicant was discharged on 21 March 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a General Discharge for Misconduct (Minor Infractions). The applicant appealed for an upgrade of his discharge characterization.

The applicant was represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 04 January 2024.

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 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 indicated that he was discharged for an isolated incident. Specifically, that he was placed on quarters for 48 hours due to a migraine, but due to lacking groceries in his dorm, he broke quarters to go to the dining facility. He indicated that this misconduct led to an Article 15 and subsequent discharge.

Upon review of the applicant's service record, the DRB was not able to find any documentation regarding the discharge. However, it did find evidence of additional misconduct during service, indicating that it was not an isolated incident that resulted in the discharge. Since the board relies on the presumption of regularity, it concluded the discharge received by the applicant was appropriate.

**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 checked the boxes for "PTSD" and "other mental health" on the application. The applicant made no other mental health contentions and claimed "my discharge was inequitable because it was based on one isolated incident in January 2023, I went to medical for a migraine and was instructed to remain in my quarters for 48 hours under the instruction of a medical officer. However, I did not have any groceries in my dorm and was extremely hungry. I left my quarters and went to the mess hall to get something to eat. For this I was given Article 15 for Breaking Quarters. Following this incident, on 22 February 2023, I was notified that I had been recommended for a discharge from the military under general conditions. I feel this discharge decision was unjust and humbly request that my discharge status be changed to an honorable discharge."*

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

*A review of the applicant's available records revealed the applicant received supportive mental health services during his time in technical training after failing a test. The applicant's records also revealed the applicant contacted the mental health clinic to inquire about services after being assigned to his first duty station and attended a coping skills group and nutrition services. There is no evidence or records the applicant received the diagnosis of PTSD during his time in service. There is no evidence the applicant exhibited or endorsed any clinically significant indicators of PTSD during his time in service. The applicant's records revealed the applicant received the diagnosis, in service, of 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 one year, three months, twenty-two days' time in service. The applicant's discharge package was not available for review.*

*The applicant's contention that he was discharged due to one isolated incident of misconduct is contradictory to the records available for review. A review of the available records revealed the applicant reported to his mental health provider that he received multiple LOCs and LORs related during his time in service. The applicant's records also revealed he made it known to mental health providers that he did not want to remain in the military because he did not like any of the career options he had been given. There is evidence the applicant exhibited and endorsed difficulty adjusting to the military lifestyle and poor coping skills, resulting in his in-service diagnosis of adjustment disorder of with disturbance of mood and conduct, which may explain the applicant's misconduct but does not mitigate 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 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 Presiding Officer on 05 January 2024. 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)

