

**SUMMARY:**

The applicant was discharged on 01 May 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with an Entry Level Separation for Fraudulent Entry. The applicant appealed for an upgrade of his a change to the discharge narrative reason, and a change to the reentry code.

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 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 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 requested an upgrade so that he may reenlist. They indicated that the Air Force alleged that the applicant had a mental health disorder, however he does not and has never suffered any mental health issue, condition or problem. The applicant claimed he was not given representation despite having the right to counsel. They also contended that the member did not have an opportunity to rehabilitate, citing the definition of the narrative reason "Entry Level Performance and Conduct." Lastly, they indicated that the narrative reason of "Fraudulent Entry" is inaccurate, as he did not knowingly withhold or conceal any information.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The applicant through counsel contended that there were no mental health issues, however, the member divulged detailed information of pre-service mental problems to the BEST and BAS providers during basic training. Understanding that there were no diagnoses at that time, the member still withheld information of mental health symptoms during MEPS, which is why the narrative reason for separation was "Fraudulent Entry." Counsel also indicated a failure to rehabilitate. They cited "Entry level Performance and Conduct," which is a narrative reason for separation, instead of the "entry level separation" characterization, which the applicant received. There is no rehabilitation required for an entry level separation.

## **LIBERAL CONSIDERATION:**

Liberal consideration does not apply this applicant's request. The applicant was discharged with an Entry Level Separation due to a mental health condition that existed prior to service (EPTS). The applicant was discharged with thirty-seven days' time in service due to fraudulent entry. A review of the applicant's records revealed the applicant denied any history of mental health conditions on his MEPS paperwork and then later disclosed a history of pre-service suicidal ideations, self-harm, and suicide attempts to a military mental health provider which are disqualifying conditions for military service IAW DoDI 6130.03. The applicant's records revealed a waiver was submitted by the applicant and the mental health provider although the waiver was denied by the Accession Medical Waiver authority. The memorandum stated (in part) "after thorough medical work and review, the trainee's condition is very likely to have existed prior to service(EPTS). The trainee did not disclose this medical history or condition. This condition was not listed on the documents from the Military Entry Processing Station (MEPS). The individual may reapply to return to USAF training or duties at some future time after treatment and resolution of the condition (if desired)."

Because the applicant did not disclose, and specifically denied, his history of mental health conditions or history of mental health symptoms on his MEPS paperwork, he was discharged due to fraudulent entry.

For the applicant's awareness, the Discharge Review Board is not the re-entry waiver authority for pre-existing medical conditions. Based on the available records, no error was found in the applicant's discharge processing.

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 "Entry Level Separation," the narrative reason for separation shall remain "Fraudulent Entry," and the reentry code shall remain "2C." 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://afbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

