

SUMMARY:

The applicant was discharged on 11 September 2009 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 his discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

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 25 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 applicant's record of service included multiple Article 15s, a Letter of Reprimand, and a Letter of Counseling. His misconduct included: Possession and consuming alcohol under the age of 21; Failed to report at the time prescribed to his appointed place of duty; Failed to report to mandatory PT; Without authority, absented himself from duty on 9 June 2009 until 12 June 2009; Made a false official statement to a SNCO that his flight was cancelled and could not return until 12 June.

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 contended inequity and stated that during his short time in service, his conduct was exemplary, therefore outweighs the minor misconduct that resulted in the discharge.

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 Board understood that the applicant felt his service was exemplary, however, the record indicates otherwise. The applicant received his first Article 15 just months after entering the Air force, and there were various issues throughout the remainder of his career.

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", "TBI", and "Other mental health" on the application. The applicant made no other mental health claims and contended "During my brief career I demonstrated exemplary conduct and high-quality leadership skills right from the beginning, by receiving many meritorious accomplishments. I believe that my merits far outweigh the minor, insignificant acts of irresponsible conduct. For this reason, my involuntary separation is inequitable."

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

There is no evidence the applicant sought or received any mental health treatment during his time in service. There is no evidence the applicant exhibited any clinically significant features of a mental health condition during his time in service. There is no evidence the experienced or reported any symptoms related to TBI during his time in service. There is no evidence the applicant received the diagnosis of PTSD or any other mental health diagnosis 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 character of service due to misconduct (minor infractions) with two years, two months, seven days' time in service. The applicant submitted a court order for a mental health evaluation dated 30 December 2020 related to civilian legal charges that occurred in August 2020, eleven years post discharge. The board acknowledges the applicant's significant criminal involvement post discharge including multiple terms of imprisonment for felony convictions along with his mental health treatment noncompliance as noted in the documents submitted by the applicant. There is no evidence the applicant sought or received any mental health treatment during his time in service. There is no evidence the applicant exhibited any clinically significant features of mental health condition or TBI, during his time in service. There is no evidence a mental health condition caused or mitigated the misconduct(s) that led to the applicant's discharge. Additionally, in the absence of evidence or testimony, it is unlikely that a mental health condition would cause or contribute to knowingly making false statements nor is there any nexus between a mental health condition and the misconducts that led to his discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated, the 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 "Misconduct (Minor Infractions)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 25 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)

