

SUMMARY:

The applicant was discharged on 01 August 2014 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 / her discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

The applicant appeared and testified/ before the Discharge Review Board (DRB), with counsel, via video teleconference using Zoom on 27 February 2024. No witnesses were present to testify on the applicant's behalf.

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 Reprimand (LOR), and a Letter of Counseling (LOC). His misconduct included: Hair not within standards; Failed to report on time for duty; Used Government Travel Card for Personal use on multiple occasions; Cited by civilian authorities for speeding; Arrested by civilian authorities for driving while privileges were suspended; Failed to pay ticket on time; Failed to report potentially disqualifying information through the Personnel Reliability Program (PRP); Without authority, failed to go at the time prescribed, to the appointed place of duty.

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, contended that the underlying basis for discharge was procedurally defective, the adverse actions and discharge was unfair, and the discharge is inequitable now. They detailed the divorce and bereavement the applicant experienced, leading to a loss of morale and symptoms of depression, which in turn led to work performance issues. They indicated that further life problems resulted in physical fitness deterioration and subsequently a fitness failure. Additionally, they highlighted an incident with the applicant's roommate taking his prescribed pain medications, which resulted in an investigation, but he was cleared of any misconduct. They explained however, that the investigation resulted in sleep problems, and he overslept on a mission day. This led to an Article 15 and his eventual discharge. They concluded that post-service, the applicant's life has been hard, but one of the main hurdles is his education and an upgrade of his discharge would allow use of the GI Bill.

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 noted that through progressive discipline, the applicant had ample opportunities to change his negative behavior. The Board noted that the member was on PRP, a position of special trust, and had been briefed on the program designed to ensure the highest possible standards of individual reliability in personnel performing specialized duties with certain types of weapons. Additionally, the Board noted that divorce and loss of family members, although sad, is not unique and uncommon for service members. It understood the applicant's present service characterization renders him ineligible for Department of Veterans Affairs GI Bill benefits. However, this is not a matter of inequity or impropriety which would warrant an upgrade. Additionally, the board noted that, although ineligible for the GI Bill, the applicant may apply for Vocational Rehabilitation from the Department of Veterans Affairs. The discharge received was deemed appropriate, as the misconduct outweighed the positive aspects 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 post-traumatic stress disorder (PTSD) or traumatic brain injury (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 box for "other mental health" on the application. The applicant, through counsel, contended the applicant's misconduct was due to his wife's infidelity and multiple deaths in his extended family. The applicant, through counsel also contended "It is important to note that the applicant has a documented history of behavioral health issues that emerged during their military service. Unfortunately, the Air Force failed to address these problems appropriately, opting for an expedient discharge based on minor misconduct. This action was not in alignment with the Department of Defense guidance regarding PTSD, Anxiety, and other behavioral health conditions."

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

There is no evidence the applicant sought or received any mental health services during his time in service. There is no evidence the applicant exhibited or endorsed any clinically significant features of PTSD, anxiety, or any other mental health condition, during his time in service.

3. Does that condition or experience actually excuse or mitigate the discharge?

A review of the applicant's DD214 indicated the applicant was discharged with a general character of service due to misconduct (minor infractions) with five years, one month, three days time in service.

A review of the applicant's in service records revealed the applicant received and Article 15, 3 LORs, an LOC, and multiple civilian citations during his time in service. There is no evidence the applicant sought or received any mental health services during his time in service. There is no evidence the applicant exhibited or endorsed any clinically significant features of PTSD, anxiety, or any other mental health condition,

during his time in service. The applicant, through counsel contended the applicant experienced psychosocial stressors during his time in service including his wife's infidelity and family member deaths.

The applicant described symptom development in response to psychosocial stressors and difficulty coping with stressors contributed to additional occupational and legal problems. There is no evidence a mental health condition caused the misconduct(s) that led to the applicant's discharge. There is no evidence or records to substantiate the applicant's contention that he developed a mental health condition during his time in service.

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 seek relief before the Air Force Board for Correction of Military Records (AFBCMR) in accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*.

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 28 February 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://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

