

**SUMMARY:**

The applicant was discharged on 28 March 2019 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 their discharge characterization and a change to the reentry code.

The applicant requested the Board be completed based on a records only review. The Board was conducted on 28 March 2024. The applicant was not represented by counsel.

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, a vacation of suspended non-judicial punishment, multiple Letters of Reprimand, and multiple Letters of Counseling. His misconduct included: multiple incidents of failing to report to work on time, dumping aircraft fuel on the ground, violating an aircraft technical order, failing to follow flight line safety procedures, failing to account for tools on the flight line, failure to follow inspection work cards while completing launch inspection, and sleeping at work.

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 asserted that his case was mishandled and that he was unfairly targeted by his leadership. He provided character statements, including from a former supervisor who attested to a toxic leadership environment, and a chaplain attesting to the applicant's character. The applicant explained that his discharge stemmed from a persistent sleep disorder which caused him to fall asleep during work and prevented him from sleeping at night. The applicant also explained that he experienced stress after his girlfriend was sexually assaulted. Finally, the applicant asserts that a poor and fluctuating leadership environment contributed to anxiety and interrupted shift accommodations which had helped relieve his sleep issues.

**LIBERAL CONSIDERATION:**

Due to evidence of a mental health diagnosis and/or records documenting that one or more symptoms of mental health conditions 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 contended that he experienced sleeping issues during his time in service and then began experiencing anxiety due to the trouble he got into because of his sleeping issues.*

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

*There is evidence the applicant reported and was evaluated for sleep dysfunction during his time in service by medical and mental health providers for the applicant's reported symptoms of daytime sleepiness and difficulty initiating sleep at nighttime. The applicant's records revealed that comprehensive testing concluded the applicant's sleep presentation was due to his lifestyle habits of being an opportunistic and periodic sleeper, there was no evidence of an organic sleep disorder. The applicant's records also revealed there was no evidence of nor did the applicant endorse any clinically significant indicators of a mental health condition during his time in service. A review of the available mental health records revealed the applicant did not endorse any symptoms consistent with a mental health condition as it pertained to his sleep dysfunction. The applicant's records revealed the applicant appropriately sought supportive mental health services following the death of his grandfather and sexual assault of his girlfriend and reported symptoms of low mood and anxiety.*

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, four months, fourteen days time in service. A review of the applicant's discharge package revealed the applicant received nine documented disciplinary actions during his time in service related to poor performance and violation of protocols. There is evidence the applicant reported and was evaluated for sleep dysfunction during his time in service including the applicant's reported symptoms of daytime sleepiness and difficulty initiating sleep at nighttime. The applicant's records revealed that comprehensive testing concluded the applicant's sleep presentation was due to his lifestyle habits of being an opportunistic and periodic sleeper, there was no evidence of an organic sleep disorder. The applicant's records also revealed there was no evidence of nor did the applicant endorse any clinically significant indicators of a mental health condition during his time in service. A review of the available mental health records revealed the applicant did not endorse any symptoms consistent with a mental health condition as it pertained to his sleep dysfunction. While the applicant's poor sleep habits may explain some of the applicant's misconducts, the applicant's sleep dysfunction was found to be the result of lifestyle choices and habits not an organic medical or mental health condition, thus the applicant's sleep dysfunction was not found to be mitigating or excusing of the applicant's in-service misconduct(s). The applicant's records revealed the applicant appropriately sought supportive mental health services following the death of his grandfather and sexual assault of his girlfriend and reported symptoms of low mood and anxiety. There is evidence the applicant exhibited and endorsed difficulty adjusting to the military lifestyle, low motivation and poor coping skills which may explain the applicant's misconduct but it does not constitute a mental health condition and does not mitigate the misconduct(s) that led to the applicant's discharge.*

4. Does that condition or experience outweigh the discharge?

*Because the applicant's discharge is not excused or mitigated, 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) and noted that the following factors were relevant to the applicant's case:

- c. The aggravating and mitigating facts related to the record or punishment from which the veteran or Service member wants relief
- e. Severity of misconduct

After considering these equitable factors, the Board determined that the applicant was not entitled to relief. The applicant asserted that his misconduct was mitigated by severe sleep issues. Further, the Board noted that one of the applicant's former supervisors submitted a character reference supporting relief and attesting to a toxic work environment. This same supervisor also reprimanded the applicant for failure to follow a maintenance manual, and despite this, represented to the Board that the applicant deserved relief.

The Board determined that the applicant's sleep issues and a toxic work environment were insufficient to mitigate the severity of his misconduct. Even assuming that the incidents of tardiness and sleeping at work were totally mitigated, the applicant's failures to follow maintenance manuals and flightline safety precautions remain and were not explained by sleep issues. This misconduct by itself formed a sufficient basis for discharge, because each incident could have resulted in significant damage to government property or even loss of life.

**FINDING:** The DRB voted unanimously to *deny* the applicant's request to upgrade his discharge characterization and to change the reentry code. The applicant did not request a change to the discharge narrative reason, and the DRB voted unanimously to deny a change.

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 2 April 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)

