

SUMMARY:

The applicant was discharged on 07 February 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 their discharge characterization.

The applicant requested the Board be completed based on a records only review. The Board was conducted on 19 April 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 multiple Article 15s, multiple Letters of Reprimand, and a Letter of Counseling. Applicant's misconduct included: Failure to go (x2); Failure to meet male hair standards (x4); Disrespectful smacking of lips stating his hair was in regulation; Having cell phone out when instructed not to during mandatory study time; Not reporting to work or notifying chain of command on whereabouts; Not being in his dorm room when instructed by sick call to go home; Sleeping on duty and failing to go to his appointed place of duty; Left his place of duty without proper authority; Making a false statement and being disrespectful.

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.

Applicant identified post-traumatic stress disorder (PTSD) and Other Mental Health as conditions related to his request to upgrade his character of service from General. Applicant provided documentation reflecting a VA combined rating evaluation of 40%, which 30% is for adjustment disorder with mixed anxiety and depressed mood. Applicant stated the upgrade would help him in meeting his goals in life and get him the job he wants. Applicant states the General discharge has taken a toll on his mental health.

The DRB determined the discharge was proper and equitable. On multiple occasions, the member received administrative actions addressing his behavior, however, misconduct continued despite rehabilitative efforts. Similarly situated service members would receive this type of discharge.

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 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 boxes for "PTSD" and "Other mental health" on the application. The applicant contended "I feel like I should be upgraded from general to an honorable discharge because it would help me in meeting goals in life. The "general" status took a toll on my mental health with was already low due to the stresses I went through while being active duty. The status being changed to an honorable discharge would allow me to get the job I want to help me succeed in life. The general COS holds me back greatly, it would be a blessing for me and my family."

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

A review of the applicant's records revealed the applicant received mental health services during his time in service. The applicant's records revealed the applicant's reported symptoms of stress and nightmares related to pre-service traumas and family issues. The applicant's records also revealed the applicant requested to terminate mental health services due to symptom resolution. The applicant's records revealed the applicant intermittently followed up with mental health services for the remainder of his time in service.

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

A review of the applicant's DD214, Certificate of Release or Discharge from Active Duty, revealed the applicant was discharged with a general character of service due to misconduct (minor infractions) with two years, nineteen days time in service. During the applicant's brief time in service he received seven documented misconducts, including two Article 15s. The applicant's records revealed a lack of candor, and an inconsistent account of circumstances and was argumentative in his responses to attempts to correct maladaptive behaviors. It is unlikely a mental health condition would mitigate or excuse the applicant's in-service misconducts of making false statements, being disrespectful to authorities, willfully choosing to use a cellphone during a study period when being instructed to refrain from cell phone use. The applicant reported on multiple occasions that the reasons for his failure to go's were because he was physically ill. Physical illness is excluded from the intent of liberal consideration. There is evidence the applicant received the diagnosis of bereavement during his time in service, however, bereavement is not a mitigating mental health condition and was noted by provider and the applicant's report to providers to have resolved during his brief time in service. Based on a review of the available records, there is evidence the applicant exhibited and endorsed difficulty adjusting to the military lifestyle and poor coping skills which may explain the applicant's misconduct but that 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 mitigated or excused, 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 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 22 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)