

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT**

**SUMMARY:**

The applicant was discharged on 23 August 2022 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with an Under Honorable Conditions (General) characterization for Misconduct (Serious Offense). The applicant appealed for an upgrade of their separation code 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 13 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 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's record of service included an Article 15 for stealing over \$400 worth of merchandise from the base exchange and making a false official statement.

The applicant asserts multiple bases for appeal. First, he states that separation was a wrongful duplication of punishment received through the Article 15. Second, he states that he was not given the opportunity to further explain his actions at the discharge process. Third, he states that his discharge was unfair, because the sum of the punishments of the Article 15 and discharge was disproportionate to his crimes. Fourth, he states that discharge is not a permissible punishment from a Lieutenant Colonel. Fifth, he asserts that the effect of the separation code preventing reenlistment is further evidence of disproportionality.

The applicant includes multiple purported "mitigation factors". First, he states reintegration will "ensure consistent and proportional punishment". Second, he requests an evaluation of the decision-making process leading up to his discharge. Third, he requests an assessment of the proportionality of his punishments. Fourth, he asks for consideration of the impact of the reenlistment code preventing him from rejoining. Fifth, he says the character references, certificate of completion, and "personal transformation narrative" show his sincere commitment to rectify his errors.

Finally, the applicant points to his post-service accomplishments, including his commitment to discipline and ethical conduct, transformative personal growth, fitness leadership, personalized coaching of others,

sustained self-discipline, mentorship and positive influence, mental endurance, and role as a counselor given that he was older than his peers.

The applicant attached additional documents, including a certificate of completion for a decision-making skills course, a theft and shoplifting course, and ten brief, unsigned statements attributed to colleagues attesting to his positive attitude and helpfulness while in the Space Force.

After a thorough evaluation of the applicant's arguments, supporting documents, and service record, the DRB determined that the applicant did not present "substantial credible evidence" to rebut the DRB's presumption of regularity in the conduct of governmental affairs. DODI 1332.28 E3.2.12.6.

The DRB reviews applications on the basis of propriety and equity. The applicant presents multiple claims the DRB considers to be challenges to propriety of his discharge, specifically, the allegation of wrongful duplication of punishment, inability to defend his actions, and challenge to his commander's authority to initiate discharge actions. None of the challenges are persuasive. Discharge following Article 15 is explicitly permitted by Air Force regulations. For example, AFI 36-3208, under which the applicant was discharged, instructs discharging commanders that "[i]f the reason for discharge is supported by an Article 15 as documentation, include with the record of Article 15 punishment all the evidence and supporting documents." AFI 36-3208 at page 136. Further, the applicant did have an opportunity to defend himself, presented a vigorous (though unsuccessful) defense to his commander, and provides no evidence that this defense was not considered. Finally, while a Lieutenant Colonel is limited to certain punishments in the context of an Article 15, commanders of any rank are permitted to initiate discharge proceedings. The applicant's propriety claims are baseless, and his discharge was properly processed.

The applicant's remaining contentions sound in equity. DODI 1332.28 E3.5.1.3.5. Again, the applicant failed to persuade the DRB, and the DRB rejects the applicant's position on the issues of equity. DODI 1332.28 E3.5.6.1.

As an initial matter, the applicant does not dispute that he stole from the base exchange on multiple occasions before being caught. The DRB concluded that a discharge due to this misconduct is consistent with Air Force and Space Force standards of discipline. DODI 1332.28 E4.3.2. The discharge was therefore equitable at the time of issuance.

The Board also 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."

After considering these factors, the DRB maintained its decision that the discharge was equitable. While the DRB appreciates the applicant's efforts for post-service rehabilitation through online courses and personal transformation, these steps were not sufficient to mitigate the seriousness of his misconduct. DODI 1332.28 E3.5.6.2.4. The DRB also concluded that the applicant's character references were not credible because they were not signed and were presented to the DRB as excerpts only.

**FINDING:** The DRB voted unanimously to *deny* the applicant's request 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 "Under Honorable Conditions – (General)" the narrative reason for separation shall remain "Misconduct (Serious Offense)" and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 13 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://afrbaportal.azurewebsites.us>

Attachment:  
Examiner's Brief (Applicant Only)

