

SUMMARY: The Applicant was discharged on 01 November 2017 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, a change to the discharge narrative reason, and a change to the reentry code.

The Applicant requested the Board be completed based on a record only review. The Board was conducted on 02 May 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. Their misconduct included: Driving Under the Influence and Failure to go.

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 contested their discharge, arguing that the command did not consider their stress at the time. They were just one month away from separation and were working with adjusters to prepare their home for sale. The Applicant stated that they were also undergoing a mental health assessment during this period. They noted that a significant amount of time had passed since their misconduct and requested relief to access their G.I. Bill benefits, which would greatly improve their life.

The DRB determined there was no evidence, based on the available records to support any impropriety or inequity that would warrant the Applicants request of an upgrade. The board understood the Applicant's present service characterization renders them ineligible for Department of Veteran Affairs education benefits. However, this is not a matter of inequity or impropriety which would warrant an upgrade. It should also be noted that the DRB is not an investigative body and presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to overcome this presumption. The presumption of regularity dictates that, absent evidence to the contrary, commanders, supervisors, and other officials involved with an action acted fairly and in good faith. It is crucial for the Applicant to bear the burden of providing evidence to overcome this presumption, as the Board will only grant relief if it determines there is sufficient evidence to conclude the Applicant's discharge was not proper or equitable.

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 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), 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 "Honestly, life was hard during my enlistment, and even worse afterwards...I was going through a lot during that time such as mental health assessment, multiple visits from adjusters due a problem with my house, which I had to get fixed and sold before separating, and did not receive much support from supervision nor my first sergeant."*

2. Did that condition exist/experience occur during military service? *The Applicant's medical record revealed the Applicant appropriately sought supportive mental health services intermittently during his time in service for stressors related to homesickness, relational problems, occupational and legal problems. The Applicant's mental health records revealed his military mental health provider diagnosed him with intermittent explosive disorder and ADHD. The provider informed the Applicant of these conditions existing prior to service, and were not conditions that would be medically boarded. Furthermore, conditions that were known to have existed prior to service (EPTS) are excluded from the intent of liberal consideration. There is no evidence of service aggravation beyond the natural progression of the illness. The Applicant's records also revealed he was command referred to ADAPT during his time in service due to receiving a DUI.*

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-Under Honorable Conditions Character of Service due to Misconduct (Minor Infractions). The Applicant had five years, ten months, five days time in service. A review of the Applicant's discharge package revealed the Applicant's misconducts included two Article 15s, one for a DUI, and one for failure to go.*

In reviewing the circumstances surrounding the Applicant's DUI, there is no evidence of a mitigating nexus between the misconduct and a mental health condition. The Applicant stated in his Article 15 response that he knew he had been drinking, was at a bar with friends, and exercised poor judgment in his decision to drive while intoxicated.

A review of the Applicant's response to his Article 15 for Failure to Go revealed the Applicant stated "I had all these things going on at once and instead of consulting my leadership, I took a leap in the wrong direction. The issues at hand were appointments with my home such as an adjuster coming to my home and dealing with the insurance companies about a waterline that leaked for 8-hours into my bathroom and a psych evaluation that was re-scheduled from the morning time to the end of the day that was made by the doctor." A review of the Applicant's Enlisted Performance Report revealed the Applicant was noted to be an "Average Amn who is easily distracted and needs regular direction; mbr requires constant mgmt. and guidance".

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Applicant of these conditions existing prior to service, and were not conditions that would be medically boarded in addition to other conditions that existed prior to service and were not conditions that would be med boarded. Furthermore, conditions that were known to have existed prior to service (EPTS) are excluded from the intent of liberal consideration. There is no evidence of service aggravation beyond the natural progression.

4. Does that condition or experience outweigh the discharge? *Because the Applicant's discharge is not mitigated or excused by his 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 their 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 AFDRB results were approved by the Presiding Officer on 19 May 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)