

SUMMARY: The Applicant was discharged on 06 May 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a Character of Discharge of Under Honorable Conditions (General), a Narrative Reason for Misconduct (Minor Infractions) and a Reentry Code of 2B. The Applicant appealed for an upgrade of their Discharge Characterization, a change to their discharge Narrative Reason for Separation, and a change to their Reentry Code.

The Applicant requested the Board conduct an initial record review of their discharge. The Board convened 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 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 requested an upgrade to their Discharge Characterization, believing that their bipolar disorder was a contributing factor to their instances of misconduct. They explained that they accept responsibility for the misconduct but stated that they did not receive proper treatment until after they were discharged from the military. During their service, they received accolades such as Honor Grad during basic training and tech school. They also received Senior Airman Below the Zone and Distinguished Graduate from Airman Leadership School. They felt they accomplished their job to the best of their abilities and believed these facts alone should reflect their honorable service. They made this request in hopes of receiving Department of Veteran Affairs (VA) educational benefits.

The DRB determined there was no evidence, based on the available records to support any impropriety or inequity that would warrant the Applicants request for an upgrade. Though the Applicant provided their mental health records, they failed to establish a clear connection between their mental health condition and their misconduct. The board understood the Applicant's present service characterization renders them ineligible for VA education benefits. However, this is not a matter of inequity or impropriety which would warrant an upgrade. The DRB determined that the severity of the Applicant's deliberate misconduct outweighed any positive contributions from their service.

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 contended "I believe that my undiagnosed bipolar disorder was a contributing factor in my incidents of misconduct. While I accept responsibility, I believe if I would have received proper treatment those incidents would not have occurred."*

2. Did that condition exist/experience occur during military service? *A review of the Applicant's in-service records revealed the Applicant sought and received mental health service during his time in service. The Applicant's records revealed the Applicant exhibited and endorsed emotional dysregulation, impulsivity, and poor coping skills. The Applicant received inpatient, outpatient, and intensive outpatient services during his time in service and participated in psychological testing on two occasions by both military and civilian providers who opined that personality pathology was the primary cause of the Applicant's behavior and emotional dysregulation. The Applicant's records revealed he received the diagnoses, in service of antisocial personality disorder, attention deficit hyperactivity disorder, adjustment disorder. The Applicant's records revealed the Applicant was recommended for administrative separation based on his unsuiting mental health condition of antisocial personality disorder which was noted by his in-service provider to be the cause of his maladaptive behaviors.*

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 Discharge Characterization of General due to misconduct (minor infractions) with five years, seven months, ten days time in service. The Applicant's discharge package was not available for review.*

There is evidence the Applicant exhibited and endorsed features of a personality disorder during his time in service. The Applicant's personality disorder traits likely caused his behavioral and misconduct issues in service and are considered incompatible for military service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. This condition may explain the Applicant's misconduct, but it does not mitigate nor excuse the misconduct; the Applicant's records revealed he was appropriately referred to administrative separation based on his unsuiting mental health condition.

The Applicant submitted select medical records and his VA rating as evidence in support of his claim. The Applicant added editorial statements to his records contending that "military mental health providers identified the condition as 'Antisocial Personality Disorder' (ASPD). The highs associated with bipolar mania cause the affected patient to behave irrationally and sometimes callously. However, ASPD, is characterized by a complete lack of empathy [sic] regardless of mood state. It should have been evident to providers that I had a change in [sic] my behavior, but not a habitual habit of violating the rights of others and having a lack of empathy." The Applicant's records revealed the multiple in-service and post-service providers concurred with the diagnosis of anti-social personality disorder.

Regarding the Applicant's concurrence with his VA rating, the VA, operating under a different set of laws than the military, is empowered to offer compensation for any medical or mental health condition with an established nexus to military service, without regard to its impact on a member's fitness to serve, the narrative reason for release from service, or the length of time that has transpired since the date of

discharge. The VA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given condition may improve or worsen over the life of the veteran.

4. Does that condition or experience outweigh the discharge? *Because the Applicant's discharge is not mitigated nor 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 Discharge 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)