

SUMMARY:

The Applicant was discharged on 15 September 2021 per Air Force Instruction 36-3208, Administrative Separation of Airmen, with an Honorable Discharge for Hardship. The Applicant appealed for an upgrade of his reentry code.

The Applicant requested that the Board be completed based on a records-only review. The Board convened on 09 May 2024. Counsel did not represent the Applicant.

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, including evidence submitted by the Applicant. The Board thoroughly reviewed 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 no misconduct.

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 argued that his reentry code indicating hardship is inequitable because he has recovered from the hardship, which led to his voluntary separation with an Honorable characterization. The Applicant separated from the Air Force after his wife and baby died in a car crash. After his discharge, the Applicant joined the Air National Guard and underwent therapy. He has since ceased taking medication, no longer has a mobility waiver, and would like to join the Air Force Reserve.

The Applicant included copies of his health records documenting his progress in therapy and a letter from the Air National Guard stating that he does not have a mobility waiver.

The DRB determined that the Applicant submitted substantial credible evidence that his reentry code is no longer equitable, despite being equitable at issuance.

LIBERAL CONSIDERATION:

Due to evidence of a mental health diagnosis and/or records documenting that one or more symptoms of mental health conditions 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), traumatic brain injury (TBI), or other trauma.

The Board determined however that liberal consideration does not apply to this Applicant's request. The Applicant was requested and was granted a hardship discharge due to the sudden death of two family members. There is no evidence that a mental health condition or potentially mitigating experience caused the Applicant's discharge. The Applicant immediately qualified for and enlisted in the Air National Guard (ANG). The Applicant submitted post-service medical records from his time in the ANG that detailed the mental health treatment he sought after the death of his family members and documentation that he returned to duty. The Applicant did not contend, nor is there any evidence, that his honorable discharge due to hardship was improper at his discharge from active duty. The DRB is not the waiver authority for reentry into service. It is the review authority for inequity or impropriety at discharge. There is no evidence that the Applicant's honorable hardship discharge was improper or inequitable.

EQUITY ANALYSIS:

The Applicant did not submit an issue of propriety, and the Board did not rely upon any such issue in its decision. DODI 1332.28 E3.5.4.

The Board examined the Applicant's arguments and evidence under the equity factors found in DODI 1332.28, E4.3. Based on these factors, the Board accepted the Applicant's positions on the issues of equity. DODI 1332.28 E3.5.6.1.

DODI 1332.28 states that the discharge is presumed equitable. E4.3. The Board must deem a discharge inequitable if there are new policies applicable granting further benefits (E4.3.1), the discharge was inconsistent with standards of discipline (E4.3.2.), or the discharge can now be seen as inequitable even though it was equitable at issuance based on specified factors (E4.3.3). The Board considered the following:

E4.3.3. Factors revealing inequity even if the discharge was equitable at issuance:

E4.3.3.2: Capability of service:

E4.3.3.2.2.: Family and personal problems: The sole reason for the Applicant's decision to separate was trauma from his wife's and child's deaths. Through therapy, this impediment to service has now dissipated.

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 at least the following factors to be relevant to the Applicant's case:

7.1. Evidence of rehabilitation: The Applicant's evidence of rehabilitation, including medical records and a letter from the Air National Guard stating that he had no duty-limiting conditions, persuaded the Board that it warranted the relief.

The Board, therefore, concluded that the Applicant met his burden of providing substantial credible evidence that his separation code is no longer equitable, even though it was equitable at the time of his discharge.

FINDING: The DRB voted 2 to 1 to **approve** the Applicant's request to upgrade his 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).

Per 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 thoroughly reviewing the available evidence, including the Applicant's issues, a summary of service, service/medical record entries, and the discharge process, the Board found the discharge was inequitable. Therefore, the awarded characterization of service shall remain "Honorable," the narrative reason for separation shall remain "Hardship," and the reentry code shall change to "3K." The Presiding Officer approved the Air Force DRB (AFDRB) results on 15 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)