

**SUMMARY:** The Applicant was discharged on 1 February 2023 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Fraudulent Entry. 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 6 June 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 his Character of Service based solely on their character. The Applicant contended his service was interrupted when their therapist took information told to them in confidence, and the therapist reported it to the Applicant's Commander. The Applicant contended he was already diagnosed with a disqualifying mental disorder which was aggravated by the stress put under by someone he trusted. The Applicant stated his service was normal, otherwise dotted with good behavior and several volunteer projects.

The DRB determined the discharge was proper and equitable. The DRB found that the Applicant knowingly made a false statement on his medical paperwork, concealing pre-service drug use of cocaine, psychedelics, and had pre-service mental health conditions that were not disclosed, which may have prevented him from entering the military. The Applicant was lawfully questioned by Security Forces where he divulged his drug use and that he intentionally answering "no" to questions that he was knowingly lying about upon entering the Air Force. Additionally, the Board did not find sufficient evidence to warrant an upgrade based solely upon character.

**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 boxes for "PTSD" and "other mental health" on the application. The Applicant contended "I would encourage the Board to make their decision solely based on my character. Three years of service and a potential med Board discharge were all interrupted when the therapist I was seeing decided to take information I told him in confidence and report it to my commander. I was already diagnosed with a disqualifying mental disorder, and it was severely aggravated by the stress I was put under by someone I trusted."*

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

*A review of the Applicant's records revealed the Applicant reported symptoms of difficulty sleeping and anxiety during his time in service. The Applicant reported to providers that he believed he had bipolar disorder and participated in psychological testing that suggested the Applicant may have bipolar II or a personality disorder, the Applicant did not want to take psychiatric medication for management of mood symptoms and did not attend any additional mental health appointments. There is no evidence the Applicant exhibited or endorsed any clinically significant indicators for PTSD during his time in service; there is no evidence or records the Applicant received the diagnosis of PTSD in-service or post-service. Based on a review of the available records, there is no nexus between the Applicant's discharge for fraudulent entry and his mental health conditions.*

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 character of service due to fraudulent entry with three years, twenty-five days' time in service. A review of the Applicant's discharge package revealed the Applicant stated in his response to discharge notification "my recommended discharge is based on information that I discussed with a Clinical Social Work under the pretense that the information was protected due to patient confidentiality." The Applicant's records revealed the Applicant disclosed an undisclosed pre-service history of psychiatric diagnosis, undisclosed pre-service mental health treatment, drug use and intentionally falsifying his military entrance documents. The Applicant contends the limits of confidentiality were unclear to him. A review of the Applicant's medical records revealed the Applicant signed the "[Redacted] Mental Health (MH) Clinic Confidentiality/Informed Consent Sheet on 18 April 2022 that detailed when, how, why, and to whom information would be disclosed. There is no evidence the Applicant's mental health condition or associated symptoms caused or contributed to the Applicant's discharge. Liberal consideration does not apply to this Applicant's request: the Applicant was discharged due to falsifying his military entrance documents, thus his in-service military mental health conditions could not have caused or contributed to his pre-service misconduct or his pre-service willful decision to falsify his entrance paperwork.*

4. Does that condition or experience outweigh the discharge?

*The Applicant's condition or experience is not mitigated, it does not outweigh the reason that led to the Applicant's discharge.*

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 "Fraudulent Entry," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 3 July 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)