

**SUMMARY:** The Applicant was discharged on 25 January 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, 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 records only review. The Board was conducted on 11 July 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 an Article 15, multiple Letters of Reprimand, and a Letter of Counseling. Their misconduct included: Failure to report on time to the duty station on six separate occasions and failure to meet the required standards in the physical fitness assessment.

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 a change in their discharge status, citing mental health issues that had exacerbated their service-connected disability and led to their discharge. They stated that they had evidence of seeking therapy for their mental health and a diagnosis of a sleep disorder developed during their service. The Applicant asserted that their sleep disorder was a major cause of their misconduct. They submitted their separation package, medical records, diagnosis, and VA rating to support their request.

The DRB found despite the Applicant's assertion that these conditions contributed to their misconduct, the evidence presented does not sufficiently support this claim. The Applicant's military records reveal that while they received mental health services for anxiety, stress, and relational issues during their service, they did not follow up on referrals or provide records of off-base mental health treatment for a sleep disorder. The documented pattern of tardiness and misconduct, primarily attributed to stress and difficulty adjusting to military life, does not directly correlate with the sleep disorder claimed. Consequently, the Board finds that the conditions cited do not sufficiently mitigate or excuse the misconduct that led to the discharge. As such, the evidence does not support altering the discharge status, and the request for relief is denied.

**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 am asking for a change in my discharge status, as I have a mental health issue that resulted in a more intense service-connected disability, which caused my separation. I have proof that I was seeking therapy for my mental health concerns while serving, as well as a health diagnosis from my military pcp for a sleep disorder I developed in service. A sleep disorder which related to reasonings of my minor infractions."*

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

*A review of the Applicant's medical and mental health records revealed the Applicant received mental health services during their time in service for symptoms of anxiety, stress, occupational problems, and relational problems. A review of the Applicant records revealed the Applicant received mental health services at the mental health clinic on base due to symptoms of panic and reported these symptoms to be resolved with therapeutic intervention and skills training, at which time their case was closed. The Applicant did not return to the mental health clinic for further services and instead requested off base services due to the Applicant's desire to work on non-military issues and personal issues. The Applicant stated to military mental health providers that they were attending off-base mental health services, although no records of this exist and none were provided by the Applicant. The Applicant was referred back to the mental health clinic by specialty care providers reference poor sleep efficiency after her MEB (insomnia) was terminated due to lacking maximal medical improvement; the Applicant's records revealed the Applicant did not follow-up.*

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 misconduct (minor infractions) with four years, two months, twenty days' time in service.*

*The Applicant's contentions are unclear. It is implausible that a post service condition would have caused the Applicant's discharge. A review of the available records and the records submitted by the Applicant revealed the Applicant attributed the misconducts that led to their discharge to a medical condition of sleep apnea. A review of the available records revealed the Applicant did not receive a diagnosis of sleep apnea during their time in service, further sleep apnea was conclusively ruled out by specialty providers. A review of the Applicant's records revealed the Applicant was referred to the mental health clinic for further evaluation and intervention strategies to assist with sleep efficiency, but the Applicant did not schedule. A review of the Applicant's available mental health records revealed the Applicant received mental health services during the time in service for symptoms of anxiety, stress, occupational problems, and relational problems. A review of the Applicant records revealed the Applicant received mental health services at the mental health clinic on base due to symptoms of panic and reported these symptoms to be resolved with therapeutic intervention and skills training, at which time the case was closed. The Applicant did not return to the mental health clinic for further services and instead requested off base services due to the Applicant's desire to work on non-military issues and personal issues.*

*The Applicant's records revealed the Applicant described symptom development in response to relational and occupational stressors and difficulty coping with stressors contributed to additional occupational and disciplinary problems. There is no evidence the Applicant reported mental health symptoms as a result of sleep dysfunction; the Applicant's records revealed the Applicant's symptoms of stress were due to what*

*were perceived to be unfair occupational expectations and relational issues. There is evidence the Applicant exhibited and endorsed difficulty adjusting to the military lifestyle and poor coping skills which may explain some of the Applicant's misconducts, but it does not excuse the misconduct(s) that led to the Applicant's discharge.*

4. Does that condition or experience outweigh the discharge?

*Because the Applicant's discharge is not excused, 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 Air Force DRB (AFDRB) results were approved by the Presiding Officer on 3 September 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)