

SUMMARY: The Applicant was discharged on 24 February 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General Discharge for Pattern of Misconduct. 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 16 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 Letters of Reprimand (LOR) and an Article 15. Her misconduct included:

- Article 15: On or about 15 Nov 2019 and on or about 13 Dec 2019, she was derelict in the performance of those duties in that she willfully failed to refrain from using her Government Travel Card for an unauthorized use, as it was her duty to do.
- LOR: (3x from Squadron Commander). Failed to comply with DoD/POTUS directed; repeatedly defied direct, lawful orders (COVID-19 Vaccine Refusal).

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 is requested an upgrade to her Character of Service. The Applicant contended that her administrative discharge was inequitable because "my overall conduct and performance while in service was positive and significantly overshadowed my misdeeds". The Applicant stated her discharge was based on an Article-15 and for Covid-19 vaccine refusal. The Applicant stated her Article-15 for misuse of a Government Travel Card (GTC) was due to facing a financial hardship and her family member used the card to purchase food and stated she is truly sorry for using the GTC inappropriately. The Applicant provided various academic and extracurricular achievements in her statement. The Applicant stated they received 3 Letters of Reprimands (LOR), and a bad Enlisted Performance Report (EPR) for refusing to take the COVID-19 vaccine as she felt scared to take the vaccine for health reasons. The Applicant stated, "I understand what I did was wrong and I ask for you to please take my background and duty performance into consideration". The Applicant stated she was not advised of the impact of a General discharge. Since the discharge, she has learned of her loss of all education benefits, right to unemployment compensation, and TRICARE, and excluded from certain jobs. The Applicant also mentioned she is one semester away from completing a political master's degree and now cannot finish. The Applicant stated she suffered health issues after separating to include a heart attack, multiples seizures, a stroke, and suffers from severe Major Depressive Disorder, but has received help of Veteran's Affairs (VA) healthcare providers and optimistic about her

future. The Applicant requested the upgrade to pursue career goals that include starting a not-for-profit organization. She also plans to pursue a political degree.

The DRB considered the differences in the DoD's current COVID-19 policies and those in effect at the time of discharge. The Secretary of Defense has rescinded the 03 September 2021 and 07 December 2021 COVID-19 Vaccination Policy Memoranda, effective 23 January 2023, as required by the National Defense Authorization Act for Fiscal Year 2023. The Department of the Air Force is no longer discharging members with general service characterizations solely for refusing to receive the COVID-19 vaccine because of service-wide policy changes. Thus, the Board concluded the Applicant's discharge was inequitable due to the changes in law and policy. Per guidance from the Secretary of the Air Force, former DAF servicemembers may petition the Air Force Discharge Review Board (AFDRB) to individually request a correction to their personnel records, including the characterization of their discharge.

The Board considered the Applicant's request for discharge upgrade and determined the discharge was based solely Applicant's refusal to take the COVID-19 vaccine. The Board substantially doubts the Applicant would have received the same discharge under current policies. The Board reviewed the aggravating factors, such as additional misconduct present in the Applicant's record apart from the refusal to take the vaccine and determined that the Applicant's Article 15 for GTC misuse was a minor isolated incident, which would not have resulted in a discharge. The Board considered that the Applicant was subsequently promoted after the Article 15 as her record reflected she was a high performer. The Applicant's record of service meets the standards of acceptable conduct and performance of duty for an honorable discharge characterization. Therefore, the Board approved the Applicant's request.

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 or and found evidence of inequity.

FINDING: The DRB voted unanimously to *approve* the Applicant's request to upgrade her 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 inequitable. Therefore, the awarded characterization of service shall Change to "Honorable," the narrative reason for separation shall Change to "Secretarial Authority," and the reentry code shall Change to "1J." 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)