

**SUMMARY:** The Applicant was discharged on 16 June 2011 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a Under Other Than Honorable Conditions Discharge for Triable by Court Martial. 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 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 sought to finalize their military record, which was marked as "to be continued," and requested an upgrade to an honorable discharge. The applicant cited a mental health condition as a significant factor in their request.

The DRB determined that the applicant's separation stemmed from charges of making a false official statement and two counts of obstructing justice. Instead of facing a court-martial, the applicant chose a voluntary discharge, resulting in an under other than honorable conditions discharge. Despite asserting that mental health issues played a significant role in their misconduct, the applicant did not provide substantial evidence linking a mental health condition with the misconduct that would overcome the presumption of regularity. As a result, the Board found that the discharge was neither improper nor inequitable.

**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 made no mental other mental health contentions and contended "A change is request to complete my military records, it's on a 'to be continued' status and close this chapter of my young life."*

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

*A review of the available records revealed the applicant attended one walk-in mental health session approximately three months prior to their discharge and reported they did not need any further mental health services. There is no evidence the applicant exhibited or endorsed any clinically significant features of PTSD or any other mental health condition, during their time in service.*

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 an under other than honorable conditions discharge due triable by court martial misconduct with one year eight months twenty-five days' time in service. The applicant's discharge package was not available for review. Based on a review of the available medical and mental health records, there is no evidence a mental health condition caused or substantially contributed to the applicant's discharge. There is evidence the applicant attended one session at the mental health clinic approximately three months prior to his discharge and reported no mental health symptoms at the conclusion of the session and declined further mental health services. There is no evidence, nor was any submitted by the applicant the applicant received any additional mental health services during his time in service or post service. At the "snapshot in time" of the applicant's service, there is no evidence the applicant had a mental health condition that caused or mitigated 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 mitigated, 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 "Under Other Than Honorable Conditions," the narrative reason for separation shall remain "Tribal By Court Martial," 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://afrbaportal.azurewebsites.us>.

Attachment:

Examiner's Brief (Applicant Only)