

SUMMARY: The Applicant was discharged on 4 August 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a General discharge for Unacceptable Conduct. 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 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 the following documented misconduct leading up to their discharge:

-Letter of Reprimand (LOR) for willfully refusing to comply with a lawful order; to wear a mask in all indoor public spaces. When the mask mandate was lifted for vaccinated personnel, the Applicant continued to refuse to comply with a lawful order mandating that all unvaccinated personnel wear a mask in all indoor public spaces. Further, the Applicant was extremely disrespectful to several staff members when asked to put on their mask. Finally, the Applicant publicly denigrated the proper military and civil authorities that issued the orders in which Applicant was actively violating.

-LOR for repeatedly alleging that the Federal Government was committing crimes through the 2020 Public Health Emergency rules, compared U.S. public officials to Nazis in Germany, and contended the Presidential Administration's orders were unlawful based on the Applicant's belief that the President was placed in office illegitimately. The LOR also cited the Applicant violated lawful orders to work in the Scheduling Flight and to accomplish assigned tasks.

-Referral Evaluation for disrespectful comments to another airman during an intramural volleyball game; received a Letter of Counseling (LOC). Member failed to adhere to installation standards for mask wear and responded unprofessionally when corrected; received an LOR.

-Referral Evaluation for refusal to follow lawful orders and made numerous unprofessional statements; received three LORs.

-Decisional Memo for failure to obey a lawful order to receive the required doses of the anthrax and typhoid vaccines.

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 their Character of Service, Separation Code, and Narrative Reason for Separation. The Applicant contended their discharge was centered around their religious beliefs and health concerns with the COVID vaccine mandate as well as directly related policies such as masking, testing, and other restrictions which became discriminatory toward the unvaccinated. The Applicant stated they tried their best to send feedback through the proper channels, but it did not seem to make a difference. The Applicant stated they followed Religious Accommodation Request (RAR) process, and they were virtually halted in their career as a copilot for doing so.

The DRB determined the discharge was proper and equitable. Despite the Applicant's assertion that their discharge stemmed from their religious beliefs and concerns about the COVID vaccine and related policies, the Board determined the discharge was attributed to a repeated pattern of unacceptable behavior, some of which was unrelated to vaccination policies. The Board determined that the chain of command had provided ample opportunities for the Applicant to address and rectify their negative behavior through administrative actions. Ultimately, the Board did not find sufficient evidence from the Applicant to support claims of error, impropriety, unfairness, or injustice that would justify granting their request for an upgrade.

The Board determined that the Applicant's service was honest and faithful, but that significant aspects of the member's conduct outweighed positive aspects of the member's military record, thus a General (Under Honorable Conditions) characterization, rather than an Honorable characterization, was appropriate.

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 "Unacceptable Conduct," and the reentry code shall remain "N/A." The DRB results were approved by the Presiding Officer on 29 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)