

**SUMMARY:** The Applicant was discharged on 30 October 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, and a change to the discharge narrative reason.

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, a Letter of Reprimand. Their misconduct included a violation of a military protection order and an arrest for operating a vehicle recklessly while under the influence.

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 an upgrade to their general discharge, citing their exemplary service throughout their military career. They stated that they had consistently demonstrated a strong work ethic and believed an honorable discharge would have been a well-deserved recognition of their hard work and dedication. Additionally, the Applicant asserted that an honorable discharge characterization would open doors to various opportunities in their civilian life, including access to health benefits, employment assistance programs, and educational opportunities. The Applicant claimed that these resources would be crucial in aiding their transition back into civilian life and repairing their reputation within the community.

The DRB noted that while the Applicant did not dispute the circumstances leading to their discharge, they marked on the application that a mental health condition may have mitigated their discharge. However, the Applicant failed to submit any substantial evidence in support of their claim and did not establish a clear connection between their mental health condition and how it would mitigate their misconduct. The DRB determined that the severity of the Applicant's deliberate misconduct outweighed any positive contributions from their service. While the Board acknowledged that the Applicant's current service characterization renders them ineligible for Department of Veterans Affairs education benefits, this is not considered a matter of inequity or impropriety that would warrant an upgrade under the DRB's Authority.

**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 made no other mental health contentions and submitted no evidence in support of his claim.*

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

*The Applicant made no contentions regarding a mental health condition and submitted no evidence or records to substantiate the reason he checked "other mental health" on the application. A review of the Applicant's in-service medical and mental health records revealed the Applicant denied mental health symptoms during his time in service until he came under investigation for military and civilian alcohol and violence misconducts. There is no evidence the Applicant exhibited or endorsed any clinically significant features of a mental health condition during his time in service. The Applicant's records revealed they were command referred to ADAPT and FAP during their time in service and participated in alcohol dependence services and family advocacy program service as the alleged offender of intimate partner violence.*

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 three years, ten months, twenty-five days' time in service. The Applicant made no contentions regarding a mental health condition and submitted no evidence or records to substantiate the reason he checked "other mental health" on the application. A review of the Applicant's in-service medical and mental health records revealed the Applicant denied mental health symptoms during their time in service until they came under investigation for military and civilian alcohol and violence misconducts. The Applicant made no claim or contention that a mental health condition caused or substantially contributed to the misconduct(s) that led to the Applicant's discharge. There is evidence the Applicant was referred to and received mental health services during his military legal proceedings. While military legal proceedings can be stressful, they do not constitute a mental health condition that mitigates the misconduct that initiated the legal proceedings.*

4. Does that condition or experience outweigh the discharge?

*Because the Applicant's discharge is not mitigated or 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, and to change the discharge narrative reason.

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)

