

**SUMMARY:** The Applicant was discharged on 22 September 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a General Discharge for Misconduct (Serious Offense). 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 29 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 multiple Letters of Reprimand, and multiple Letters of Admonishment. Their misconduct involved feigning mental illness to avoid service, misuse of a government travel card for personal travel, making a false official statement with intent to deceive, displaying disrespectful behavior on two occasions, showing disrespect toward an officer, and being absent without leave (AWOL).

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 in their discharge characterization, as they felt they should have been medically discharged for their mental health disorder. They stated that they were separated after developing a psychotic disorder and would have stayed in the military with a waiver. However, after reporting being sexually assaulted in the past with an Equal Opportunity complaint, they believed their career was manipulated. They provided their medical records and a benefit verification letter as supporting evidence to help their claim in a request for relief.

The DRB determined that the Applicant was discharged for unsuitability and malingering following a special court-martial for feigning mental derangement, making false statements, and misusing a government travel card. Although the Applicant claimed to have developed a psychotic disorder during service, the evidence showed these symptoms were falsified, leading to a diagnosis of malingering and antisocial personality disorder. Multiple mental health evaluations found no PTSD or significant indicators of it, and the Applicant's command fully considered these factors during the discharge process. Additionally, there was no evidence supporting the Applicant's claims of an EO complaint or sexual assault. The benefit letter provided no connection between disability compensation and military service, and no new evidence justified changing the original decision. Therefore, the DRB found no evidence that the discharge was improper or 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 contended "I received an involuntary separation after developing a psychotic disorder and wasn't given a medical discharge. I wanted to stay in the military and continue serving with a waiver, however after reporting being sexually assaulted in the past with an EO complaint, my career was manipulated entirely[sic]. Personally, I ask to be given an upgrade[sic] discharge because 'I know' that I served honorably."*

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

*A review of the available records revealed the Applicant endorsed symptoms of psychosis subsequent to a breakup during their time in service and were later conclusively determined to be falsified and the Applicant was determined to be malingering. The Applicant's records revealed he received inpatient, outpatient, and partial hospitalization mental health services during his time in service, although the Applicant was minimally compliant with treatment recommendations and refused medications per the available records. A review of the available records revealed no evidence the Applicant filed an EO complaint or had any encounters with the Equal Opportunity office; the Applicant's claim of being 'sexually assaulted with an EO complaint' is unclear and not additional evidence, testimony or records were provided by the Applicant to substantiate this claim. There is no evidence the Applicant received the diagnosis of PTSD during his time in service. There is no evidence the Applicant exhibited or endorsed any clinically significant indicators of PTSD during his time in service. The Applicant's records revealed the Applicant received the diagnosis, and was convicted of, malingering, during his time in service, and antisocial personality disorder.*

3. Does that condition or experience actually excuse or mitigate the discharge?

*The Applicant's contentions are contradictory to the records available for review. Based on a review of the Applicant's available in-service medical and mental health records, the Applicant was extensively evaluated by multiple mental health providers at multiple facilities, both military and civilian and was conclusively diagnosed with malingering and antisocial personality disorder. The Applicant's records revealed they were found guilty at a Special Court Martial of feigning mental derangement. There is evidence the Applicant exhibited and endorsed features of a personality disorder during his time in service. The Applicant's personality disorder traits likely caused his behavioral and misconduct issues in service and are considered incompatible for military service. Personality disorders and traits are conditions of a developmental nature—they are pervasive, stable, persistent, and often resistant to treatment. This condition may explain the Applicant's discharge, but it does not mitigate the discharge. The Applicant's request to the Board lacks candor; the Applicant's records revealed they engaged in willful misconduct and exhibited blatant disregard for others.*

*The Applicant submitted his Social Security Administration benefit verification letter. The letter contained only the amount of financial compensation he is receiving for a disability; no information was provided about the disability or a nexus to his time in service.*

4. Does that condition or experience outweigh the discharge?

*Based on review of the Applicant's records, the Applicant's mental health conditions were known and fully considered by the Applicant's command during the discharge process. The Applicant's discharge was not mitigated nor excused by a mental health condition, and the Applicant 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 (Serious Offense)," 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)

