

SUMMARY: The Applicant was discharged on 29 June 2020 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a Under Other Than Honorable Conditions Discharge for Misconduct (Serious Offense). 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 29 July 2024. The Applicant was 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 involved a series of offenses including drunk and disorderly conduct, willful and unlawful property damage, assault with force or violence, stabbing, driving under the influence, and resisting arrest by local police.

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 contended that the under other-than-honorable discharge was inequitable due to a mental health condition, which was believed to mitigate the misconduct. The applicant argued that the discharge was also inequitable when considering the Wilkie memo factors, including overall quality of service and post-service contributions to the community. They asserted that their capability to serve had been hindered by mental health issues and age.

The DRB found that the Applicant's record shows a consistent pattern of serious misconduct, marked by severe, frequent, and willful incidents that undermined the ability to serve honorably. Many other Airmen of the same age have successfully followed regulations and served honorably, demonstrating that age alone does not excuse misconduct. While the Applicant claims that pre-service PTSD mitigated this behavior, the evidence does not support this. Despite multiple referrals to the ADAPT program, there was no documented improvement or acknowledgment of mental health issues impacting the Applicant's behavior, and the Applicant admitted to not seeking mental health counseling during service. The Board also considered post-service conduct and character references, but these commendable factors do not outweigh the severity of the misconduct. The Board concludes that the discharge under other-than-honorable conditions remains appropriate and equitable.

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:

Liberal consideration does not apply to this applicant's request. The severity, nature and frequency of the Applicant's misconducts are excluded from the intent of liberal consideration. Liberal consideration generally does not apply to misconducts involving harm to others, the Applicant's records revealed multiple incidents of misconduct at multiple locations, CONUS and OCONUS, on and off base with no nexus to an in-service mental health condition.

Lastly, and most notably, the Applicant contends her misconduct was due to pre-service PTSD experiences. Liberal consideration does not apply to conditions that existed prior to service (EPTS) with no evidence of service aggravation. There is no evidence of service aggravation. The Applicant exhibited a pattern of willful and egregious misconduct for the duration of her time in service; the severity of the Applicant's misconducts and the Applicant's EPTS condition are excluded from the intent of liberal consideration.

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 "Misconduct (Serious Offense)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 4 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)

