

SUMMARY: The applicant was discharged on 16 July 2020 per Air Force Instruction 36-3208, Administrative Separation of Airmen, with a General Discharge for Misconduct (Minor Infractions). 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 06 June 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 vacation of suspended non-judicial punishment, multiple Letters of Reprimand, and a Letter of Counseling. His misconduct included: With the intent to deceive make a false official statement, to wit: I made contact with the on duty flight sergeant; On or about 13 Mar 20, failed to go at the time prescribed to his appointed place of duty; On or about 23 Mar 20, failed to go at the time prescribed to his appointed place of duty; On or about 2 Feb 20 and on or about 4 Feb 20, failed to go at the time prescribed to his appointed place of duty; On 31 Dec 19, arrived late to work after being woken up by his supervisor; on the next day, 1 Jan 20, arrived late to work after being woken up by his supervisor; On 14 Dec 19, failed to go at the time prescribed to his appointed place of duty; On 2 Oct 19, failed to go at the time prescribed to his appointed place of duty.

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 indicated in the application that he was discharged unfairly, as the basis was for false claims. He explained, "I was permanently bumped down to E-1 for a claim that I tried talking to the Inspector General and he was my old flight instructor [name] he told me to wait but things were progressing too quickly. I thought the Inspector General was supposed to have my back, but I was wrong. I would ask that there be no more of higher ups pushing power around and labeling the blame and shame on lower enlisted folk." The applicant stated that it is unjust.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. Through the administrative actions taken by the chain of command, the applicant had ample opportunities to change his pattern of negative behavior. Additionally, the Board determined that the applicant's experience of trauma pre-service did not have a nexus to the misconduct committed. The discharge was deemed appropriate.

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 made no contention of a MH condition or experience may have caused his discharge, and it was unclear that he has the language facility to communicate in writing.

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

The only in-service encounters the applicant had occurred after he received the LOR. He was assessed with unspecified trauma after relating childhood trauma he received while in an orphanage in Russia. There was no evidence of an in-service MH condition.

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

Since there was no evidence of a MH condition or an experience that led to his discharge chronic tardiness and deception, there is no evidence that a condition or experience excused or mitigated the discharge.

4. Does that condition or experience outweigh the discharge?

No, there is no evidence that any MH condition or experience outweighs the discharge.

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 his 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 (Minor Infractions)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 3 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)

