

**SUMMARY:** The Applicant was discharged on 24 February 2015 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 27 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 multiple Article 15s and a Letter of Reprimand. Their misconduct included: failing to register a firearm in a timely manner and falsifying an official statement, engaging in unwanted sexual contact with an Airman and unlawfully restraining an Airman, and wrongful use of oxymorphone, a Schedule II controlled substance.

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 is requesting an upgrade from the Board, asserting that they were wrongfully accused of sexual assault, which has negatively impacted their service record and tarnished their character and family's reputation. In their letter to the Board, the Applicant describes a situation in which a close friend, who had been discharged from the military, retaliated by creating a false accusation of sexual assault against them. The Applicant details the events leading up to the accusation and provides an account of the incident from their perspective. They believe their military career would not have been derailed if they had not associated with this close friend. The Applicant has submitted a personal statement, along with professional awards and certificates, to support their request for an upgrade.

The DRB found that the Applicant was discharged due to a pattern of misconduct, including receiving an Article 15 for sexual assault. The Applicant failed to disclose that their discharge also stemmed from testing positive for oxymorphone, a Schedule II controlled substance, possessing an unregistered firearm, and falsifying an official statement. Upon notification of these charges, the Applicant voluntarily waived their right to a board, accepting the punishment and discharge. While the Applicant has provided a personal statement and professional awards, there is insufficient evidence to substantiate the claim that the sexual assault accusation was retaliatory and false. Additionally, there is no documentation in the Applicant's military records before the DRB application refuting these charges. The positive drug test and the possession of an unregistered firearm are serious offenses that further justify the discharge, and the falsification of an

official statement undermines the Applicant's credibility. In light of these considerations, the Board finds no evidence of inequity or impropriety in the Applicant's discharge, and the request for an upgrade is therefore denied.

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 5 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)

