

SUMMARY: The Applicant was discharged on 25 February 2021 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General 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 appeared and testified before the Discharge Review Board (DRB), with counsel, via video teleconference using Zoom on 30 July 2024. No witnesses were present to testify on the Applicant's behalf.

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 the following documented misconduct leading up to their discharge: an Article 15 for willfully failing to refrain from engaging in unlawful sexual harassment of an Airman by engaging in unwelcomed sexual advances and inappropriate comments; willfully failed to refrain from engaging in unlawful sexual harassment of another Airman by engaging in verbal conduct of a sexual nature; wrongfully communicated to an Airman, a threat to kill another Airman by shooting them; unlawfully grabbed Airman's hair with their hand; unlawfully grabbed Airman's throat with their hand and push them against a wall; unlawfully touched an Airman's buttocks with their hand; attempted to influence the testimony of an Airman, with intent to obstruct the due administration of justice in the investigation where they had the reason to believe there were or would be disciplinary proceedings pending.

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 argued that the command denied them justice by eliminating the chance for an administrative discharge hearing or court-martial. They also claimed that they were falsely accused and has firmly denied the allegations. Furthermore, they pointed out that the investigation was mishandled, as it was conducted not by Air Force Office of Special Investigations, but by the Security Forces Squadron and the member's command. They asserted that the allegations were groundless, could not be supported by a preponderance of evidence, and were merely rumors without corroboration. The Applicant emphasized that the discharge was based on an Article 15, and the misconduct cited was rooted in a fundamentally flawed investigation. They concluded that the discharge was unlawful and unfair, resulting in a negative stigma.

The Applicant provided the following documents in support of their claim: Official Military Personnel File Area Defense Counsel Memo (ADC), Statement of [Redacted] to SA, DD Form 214, *Certificate of Release or Discharge from Active Duty*, AF IMT Form 100, *Request and Authorization for Separation*, Memorandums for the AFDRB, Statement of [Redacted] to AFDRB, Record of NJP Proceedings,

Notification memo and Acknowledgement, Statement of [Redacted], Applicant Family Photo, Department of Veteran's Affairs Letter

The Board found that the Applicant was discharged from the Air Force for misconduct, specifically sexual harassment and assault, attempted obstruction of justice, and threats. The Applicant argued that the investigation was mishandled, and that they were falsely accused and firmly denied the allegations. However, the DRB found that the investigation was conducted in accordance with Air Force regulations. Further, at the time, the Applicant's ADC stated they did not doubt the legality of the Command Directed Investigation process and received a copy of the Report of Investigation to formulate a rebuttal to the allegations and eventual administrative discharge. The Applicant was also given the option for a court-martial in lieu of accepting non-judicial punishment. The Applicant attributes the accusations from victims to be lies, their motive was to keep themselves from trouble, and their recollection of events were hampered due to intoxication. The Board found these claims did not negate the credibility and accuracy of the accusations due to the number of victims and consistency in statements verifying and witnessing the Applicant's misconduct. The DRB determined that the Applicant did not provide sufficient evidence contrary to the record that would overcome the preponderance of evidence standard. Therefore, the Board found no proof of impropriety or inequity in 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 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 seek relief before the Air Force Board for Correction of Military Records (AFBCMR) in accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*.

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 DRB results were approved by the Presiding Officer on 6 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)