

SUMMARY: The Applicant was discharged on 13 March 2015 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for “In Lieu of Trial by Court Martial.” 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 3 October 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 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 they were falsely accused and not given a fair trial. They cited that their Judge Advocate General (JAG) kept them in the dark until the hearing and did nothing during the case and that there was no proper evidence given in the trial, and that the evidence that was given went against the claims that were made. The Applicant also cited that there was no written, video, or voice recording of the [the Applicant] admitting to guilt. The Applicant contended that the key witnesses had weak testimonies with no evidence to back their claims.

The DRB found that the Applicant received military legal counsel and private legal counsel. After receiving legal counsel, the Applicant requested discharge in lieu of trial by court-martial. In the Applicant’s request for discharge, they acknowledged receiving the Office of Special Investigations (OSI) Report of Investigation and the Article 32 Report and acknowledged that they understood the elements of the offenses in which they were charged. The Applicant was also counseled about the potential ramifications of both a court-martial conviction and a successful request for discharge. Therefore, the Board did not find evidence of impropriety or inequity related to the Applicant’s contention that they did not get a fair trial as the Applicant had requested to be discharged rather than having their case be heard in a court martial trial and the Board did not find evidence supporting the Applicant’s claim that they received inadequate counsel.

The Applicant requested a General characterization of service in their request, which was honored and the Board found that this provided the Applicant with relief at the time of discharge, as an Under Other Than Honorable Conditions characterization is typical in these types of cases. Lastly, the Board did not find that the Applicant provided sufficient evidence to support their claim that their lack of admission of guilt or that the evidence and testimony against them were weak to overcome the preponderance of evidence against them, resulting in their administrative 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 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 “In Lieu of Trial by Court Martial,” and the reentry code shall remain “2B.” The DRB results were approved by the Presiding Officer on 23 October 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, 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)