

SUMMARY: The Applicant was discharged on 27 June 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a General discharge for Misconduct (Serious Offense). 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 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 Applicant's record of service included the following documented misconduct leading up to their discharge:

- Letter of Reprimand (LOR) for drinking alcohol at an off-base establishment; arrested for underage drinking.
- LOR for trespassing within the COVID-19 Quarantine Zone.
- Letter of Counseling (LOC) for failing to attend a scheduled meeting.
- LOR for sleeping while on duty; received numerous verbal counseling actions for the same issue.
- LOR for lying to police and unlawfully entering a university building; arrested for second degree burglary and larceny.

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 not guilty of the alleged offenses that got them discharged and all charges were dropped.

The DRB determined that despite the Applicant's contention that their civil charges were dismissed, their multiple instances of misconduct that they were found to have committed were not excused or mitigated by the dismissal. These misconducts included the violation of Article 129 of the *Uniform Code of Military Justice, Burglary*, which resulted in their discharge under the provisions of DAFI 36-3211, paragraph 7.40.4, for commission of a serious offense. The Board found no evidence of inequity or impropriety in the Applicant's discharge. The Board also noted that discharges for commission of a serious offense are typically characterized as Under Other Than Honorable Conditions (UOTHC). However, at the time of discharge, the Command took into account the Applicant's satisfactory service and determined a General characterization was warranted.

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.

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 (Serious Offense),” 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)