

SUMMARY: The Applicant was discharged on 17 May 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a Under Honorable Conditions (General) discharge for Unsatisfactory Performance. 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 22 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 for dereliction of duties to include failing end of course pretest.
- Letter of Reprimand for failure to have uniform in regulation at work.
- Letter of Counseling for dereliction of duties as a dental assistant, resulting in distrust from patient.
- Letter of Counseling for failure to complete career development courses on time.
- Letter of Counseling for disrespect and unprofessionalism in the workplace.

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 made no contentions but requested an upgrade to their characterization.

The DRB determined the Applicant did not present any contentions or any evidence of inequity or impropriety. Per AFI 36-2023 para 3.2.4 "The DRB is not an investigative body and presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to overcome this presumption. The presumption of regularity dictates that, absent evidence to the contrary, commanders, supervisors, and other officials involved with an action acted fairly and in good faith. The Applicant bears the burden of providing evidence to overcome this presumption, and the board will only grant relief if it determines there is sufficient evidence to conclude the Applicant's discharge was not proper or equitable." The DRB reviewed the Applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The Applicant had demonstrated a pattern of unsatisfactory performance, including dereliction of duties, disrespect, and unprofessionalism in the workplace.

LIBERAL CONSIDERATION: Due to the Applicant's contentions or 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 checked the box for "other mental health" on the application but did not submit any substantiating documentation or testimony in support of their claims. The Applicant made no other claims and did not provide any testimony or evidence regarding why they checked the box for "other mental health."

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

Yes, there is evidence the Applicant was seen by a mental health provider on two separate and single occasions with symptoms of performance anxiety, stating they feel anxious and unable to succeed when being evaluated. The Applicant did not receive any mental health diagnoses during their time in service.

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

The Applicant was discharged with a general character of service due to unsatisfactory performance which included six documented misconducts during their one year, six months, two days time in service. The Applicant made no contentions regarding a mental health condition during their time in service. There is no evidence of a mitigating nexus between the symptoms for which the Applicant sought mental health services for and the misconducts that led to their discharge. A review of the Applicant's misconducts included disrespectful and unprofessional attitude toward trainers, repeatedly wearing stained, dirty, and wrinkled uniforms, willfully failing to complete education courses due to "slacking off" as stated by the Applicant in response to misconduct documentation and delivering incorrect information to patients. A review of the Applicant's response to discharge notification revealed the Applicant did not dispute the service characterization nor make any contentions regarding a mental health condition at the time of their discharge. There is no evidence a mental health condition mitigated or excused the misconducts that led to the Applicant's discharge.

4. Does that condition, or experience outweigh the discharge?

Because the Applicant's discharge is not mitigated or excused by a mental health condition, the Applicant's discharge is also not outweighed.

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.

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 Honorable

Conditions (General),” the narrative reason for separation shall remain “Unsatisfactory Performance,” and the reentry code shall remain “2B.” The DRB results were approved by the Presiding Officer on 25 November 2024. If desired, the Applicant can request a list of the Board members and their votes by writing to:

Air Force Discharge Review Board
3351 Celmers Lane
Joint Base Andrews, MD 20762-6435

Instructions on how to appeal an AFDRB decision can be found at <https://afrbportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)