

SUMMARY: The Applicant was discharged on 08 March 2023 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Other Than Honorable Conditions discharge for Misconduct (Serious Offense). The Applicant appealed for an upgrade of their discharge characterization and a change to the discharge narrative reason.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 24 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: Article 15 for Sexual Assault

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 requested an upgrade to a General discharge, supported by their Squadron Commander, ADC, and the Victim's Counsel, and sought to change their separation code from HKQ (serious misconduct) to HKM (misconduct). They asserted they had served honorably, maintaining strong performance despite allegations of sexual misconduct, which they claimed were unsupported by evidence and were resolved hastily by the legal office to accommodate holiday schedules.

The Applicant stated that they believed the punishment was an overreaction to the military's broader sexual assault response and accepted an appeal, knowing that no Airman in their position would go to court. They also argued that the victim could de-escalate the situation, making them partly responsible. Additionally, the Applicant noted that their discharge prevented them from receiving medical benefits for injuries sustained during service, which they felt were unjust.

The DRB assessed the Applicant's positive duty history and overall performance in relation to the nature of the misconduct. While acknowledging that the Applicant's actions represented a serious breach, the Board carefully evaluated whether this conduct warranted the originally assigned Under Other Than Honorable Conditions (UOTHC) discharge. Recommendations for a more lenient discharge from the Squadron Commander, Area Defense Counsel (ADC), and Victim's Counsel underscored a shared view that the Applicant's service and favorable performance justified reconsideration. Further, the Applicant's former commander—who later faced removal due to unrelated misconduct—introduced potential concerns about the fairness of previous decisions made under their command.

In light of these factors, along with noted inconsistencies in the evidence and the Applicant's demonstrated remorse and efforts toward rehabilitation, the Board concluded that a General discharge with the narrative reason of "Minor Misconduct" better aligned with the Applicant's record and circumstances. This outcome recognized the Applicant's valuable service contributions while appropriately addressing the severity of the incident.

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.

FINDING: The DRB voted unanimously to **approve** the Applicant's request to upgrade their discharge characterization and to change the discharge narrative reason.

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 inequitable. Therefore, the awarded characterization of service shall change to "Under Honorable Conditions - (General)," the narrative reason for separation shall change to "Misconduct (Minor Infraction)," and the reentry code shall remain to "2B." The DRB results were approved by the Presiding Officer on 15 November 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 20762-6435

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

Attachment:
Examiner's Brief (Applicant Only)