

SUMMARY: The Applicant was discharged on 29 August 2013 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) discharge for Misconduct (Minor Infractions). 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 14 November 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 DRB provided a notice to inform the service member of resources available to help answer their questions about the application process and/or to help them supplement their application, to include information on the types of evidence that can be submitted to support a claim; information regarding potential eligibility for mental health treatment and evaluation services offered by the Department of Veterans' Affairs (VA); general information regarding Veterans Service Organizations that may assist with DRB applications, and their right to retain counsel; a link to a database of legal services organizations that serve members of the military, veterans, and their families; the weblink to the VA's Directory of Veteran's Service Organizations; and information regarding reasonable accommodation requests from the DRB in the application and adjudication process.

The Applicant's record of service included the following documented misconduct leading up to their discharge:

- Article 15 for grabbing another individual.
- Vacation of Article 15 for engaging in a physical altercation.

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 contends they had undiagnosed medical issues such as major depression, anxiety, insomnia, and sleep apnea. They state their sleeping issues started when they were placed on night shift for tech school classes and then worked day shift for the remainder of their service, but their biological clock never recovered to this day. The Applicant attributes their sleep issues to exacerbating their anxiety and depression, impacting their work, personal life, behavior, and service. Since their discharge, the Applicant states they have been a pillar of good behavior, a model employee/member of their community, held multiple state licenses as a real estate agent and life insurance agent, volunteering at school and coached multiple sport teams at their kids' school. The Applicant stated they volunteer with the Salvation Army and make quarterly donations.

The DRB determined that there was insufficient evidence to justify upgrading the applicant's discharge. The applicant committed multiple serious acts of misconduct, including physically assaulting another individual on multiple occasions and escorting an unauthorized person onto a military installation despite explicit instructions not to do so. These actions violated military standards and posed significant safety and security concerns. While the applicant presented evidence of undiagnosed mental health conditions and sleep disorders, the board found no indication that these conditions existed during military service or that they directly contributed to the applicant's behavior. The board determined that the applicant's mental health conditions did not mitigate or excuse the severity of their actions, particularly the assaults, which are considered grave offenses that cannot be justified by medical conditions, even if present.

The DRB acknowledged the applicant's commendable post-service contributions, including community involvement and professional achievements. However, these efforts did not outweigh the seriousness of the misconduct that occurred during military service. The board found that the applicant's character of service and the reason for separation were appropriate given the nature of their actions while in service. Consequently, the board upheld the original discharge characterization and separation reason.

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 contended they were dealing with a multitude of undiagnosed medical issues such as depression, anxiety, insomnia, and sleep apnea, which had wreaked havoc on their life. They believed their sleep problems began when they were placed on the night shift for tech school issues and never recovered. Their lack of sleep from insomnia exacerbated their anxiety and depression, and their anxiety and depression made it harder for them to sleep. This cycle greatly impacted their work, life, behavior, and service.

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

There is evidence the applicant sought treatment (psychotherapy, psychoeducation, and medication management treatment) from BHOP and their PCM for insomnia during service. They were given a diagnosis of primary insomnia or insomnia. There is no evidence or records that their anxiety or depression existed or occurred during their military service. There is also no evidence or records that their insomnia caused or exacerbated their anxiety or depression or vice versa during service. They completed the ADAPT education course after engaging in an alcohol-related incident in the dorms and were not given any alcohol use disorders or other mental disorders. There is no evidence that they were drinking to cope with their anxiety, depression, or insomnia, which led to their command-referred evaluation by ADAPT. They were first diagnosed with Major Depressive Disorder in 2017, about four years after their discharge from service, by a provider at the VA. Their depression was reported to have been triggered by post-service stressors such as the deaths of their grandmother and close friend, their physical limitations, and their family problems.

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

There is no evidence or records that the applicant's mental health condition caused, had a direct impact on, or was a mitigating factor in their pattern of minor disciplinary infractions, including physically assaulting a fellow airman and failing to refrain from escorting an individual on base who did not have proper identification or a base pass, which were reasons for their discharge. There is no evidence their insomnia, anxiety, or depression caused any of these misconducts. Furthermore, assaulting another airman is a serious offense and could not be excused or mitigated even by their mental health condition. It was noted in their service treatment notes that they had insomnia before their military service, and there is no evidence their military service or duties aggravated their pre-existing condition. Therefore, their mental health condition does not excuse or mitigate their discharge.

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

Since their mental health condition does not excuse or mitigate their discharge, their mental health condition also does not outweigh their 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.

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 "Under Honorable Conditions - (General)," the narrative reason for separation shall remain "Misconduct (Minor Infractions)," and the reenry code shall remain "2B." The DRB results were approved by the Presiding Officer on 13 December 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://afrbportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)



