

SUMMARY: The Applicant was discharged on 29 November 2022 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 not wearing a face covering during a gathering during COVID-19 Mitigation Measures and Enforcement. Providing a false statement to Security Forces law enforcement officers. Hid in a closet with reason to believe there would be criminal proceedings pending.
- Letter of Reprimand (LOR) for not proper retrieving crew orders from an incoming aircraft when directed to do so.
- Letter of Counseling (LOC) for failing to report to duty on time; multiple occasions.
- LOR for arriving late to training.
- LOC for receiving two traffic tickets.
- LOR for failed to report to duty for Guard mount.

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 informed their commander when they were notified of discharge that they were

undergoing multiple medical tests following a vehicle collision. The Applicant stated their cerebrovascular accident (CVA) manifested in April 2022 during service and worsened over time. They stated they experienced TBI symptom such as memory loss, confusion, mood fluctuations, and sleep disturbances that impacted their duties, which they contend led to a memory lapse regarding their reporting date paired with an incorrect date provided by their supervisor.

The Applicant provided the following documents in support of their claim: Separation Memorandum, Character References, Professional Certifications, VA Rating, Medical Documents.

The DRB determined that there was no inequity or impropriety in the characterization of the applicant's service or the assigned reentry code, both of which were consistent with applicable regulations. The applicant's documented pattern of misconduct and the lack of mitigating evidence supported the decision. While the applicant reported headaches and insomnia following the April 2022 motor vehicle accident, medical evaluations, including an MRI, revealed no evidence of TBI or related symptoms such as memory loss or confusion during service.

The applicant disclosed medical limitations, including an inability to perform certain duties, during the discharge process. However, these factors were considered by the command, which reasonably concluded that the discharge for misconduct was appropriate. The applicant did not provide evidence directly linking their claimed TBI or mental health conditions to the misconduct. Although the applicant contended that memory lapses and other symptoms contributed to their behavior, the records did not substantiate these claims. Furthermore, the applicant's responses to disciplinary actions and discharge documentation primarily addressed logistical issues and personal grievances, rather than attributing their actions to a medical condition. Consequently, the board concluded that the applicant's TBI and mental health claims did not excuse, mitigate, or outweigh their discharge.

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 that when she was informed of her discharge action, she disclosed to her commander that she was undergoing multiple medical tests for an undiagnosed condition following a vehicle collision accident or MVA that occurred in April 2022 and worsened over time. She experienced Traumatic Brain Injury (TBI) symptoms of memory loss, confusion, mood fluctuations, and sleep disturbances that impacted her ability to fulfill her duties—she had a lapse in memory regarding her reporting date. She believed the impact of her undiagnosed TBI on her performance affected her significantly and influenced the decision for her discharge.

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

There is evidence that the applicant was involved in an MVA in April 2022 during her time in service. She made complaints to her PCM of having headaches and insomnia for over four weeks following her MVA.

She received an MRI, and the results were unremarkable. The MRI did find she had a mucous retention cyst, but it was a benign lesion and should not cause any symptoms or concerns including her headaches and sleep issues according to her medical provider. There is no evidence or records that she had any memory loss, confusion, or any other TBI symptoms sustained from her MVA during her military service. Her mental health treatment notes dated 03 November 2022 reported she had no decrease in her concentration ability, which disputes her contention. There is no evidence she had an undiagnosed TBI during service as contended. There are records she briefly sought mental health treatment for concerns about an eating disorder caused by stress, anxiety, and depression. These problems were later revealed to be related to her not being able to leave Guam after her discharge action had been initiated.

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

The applicant was discharged from service for engaging in a pattern of misconduct (about seven documented misconducts) of not wearing a face covering during a gathering, making a false official statement, hiding in a closet that impeded the due administration of justice, failing to obey a lawful order, failing to report for duty, arriving late to training, parking illegally and not properly displaying a license plate or tag, and failing to report for guard duty. These misconducts occurred between the period of 27 February 2021 to 21 April 2022. All but one of these misconducts that formed the basis of her discharge had occurred before her MVA in April 2022 and thus, there is no nexus between the majority of her misconducts and her claimed TBI or other mental health conditions developed from her MVA. The applicant had pre-existing misconduct problems prior to her first encounter with the mental health clinic or BHOP in June 2021 for complaints of sleep problems. There is no evidence her sleep problems caused any of her misconduct problems based on her statements in response to her disciplinary actions submitted at the time of service. She also denied having any mental health issues during her annual PHA in August 2021 so her misconducts occurring around this time frame could not be caused by her mental health condition. A review of her records finds no evidence her mental health condition and/or TBI from her MVA had a direct impact on her misconduct and discharge and therefore, her mental health condition and TBI do not excuse or mitigate her discharge.

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

Since her mental health condition and TBI does not excuse or mitigate her discharge, her mental health condition and TBI also do not outweigh her discharge. There is no inequity or impropriety identified with her discharge from a mental health perspective.

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 DRB results were approved by the Presiding Officer on 27 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)

