

SUMMARY: The Applicant was discharged on 02 December 2020 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Other Than Honorable Conditions for Misconduct (Civil Conviction). 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 13 December 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 a civilian conviction in addition to the following documented misconduct leading up to their discharge: Letter of Reprimand for animal abuse.

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 stated that they were sexually assaulted by another Airman, an experience they believed contributed to their subsequent mental health struggles. They explained that they were undiagnosed with schizophrenia at the time, which they contended led to their breaking the law during a schizophrenic episode. The Applicant further attributed their condition to the compounded effects of PTSD from military sexual trauma (MST), depression, and stress, which they believed contributed to the onset of schizophrenia. They asserted that schizophrenia is a profoundly disabling condition, even when managed with medication.

The Applicant acknowledged that they did not report the MST to a mental health provider at the time of the incident. It was only during incarceration that they received a proper diagnosis. They asked the Board to consider that their civil conviction was the result of an acute mental health episode and, in light of their

circumstances and mitigating mental health factors, they believed they were deserving of an upgrade to a General discharge.

The DRB concluded that the Applicant's discharge was the result of misconduct related to a civilian criminal conviction for the electronic enticement of multiple minor children. This behavior represented a severe breach of the standards expected of an Airman and constituted a significant departure from acceptable conduct. Due to the premeditated nature and harm caused by these actions, the Board determined that the Applicant was not eligible for consideration under liberal consideration guidelines, which are not applicable to deliberate or egregious misconduct.

Although the Applicant asserted that their actions were influenced by undiagnosed schizophrenia and the compounded effects of PTSD, depression, and military sexual trauma (MST), the Board found no evidence linking these mental health conditions to the misconduct. Liberal consideration does not apply to premeditated misconduct or actions that result in harm to others. The Applicant's crimes were determined to be intentional and not the result of an acute mental health episode. Additionally, the Board concluded that the Applicant's significant post-service mental health challenges did not outweigh the severity of their in-service misconduct. The Applicant's deliberate actions and the lack of mitigating evidence led the Board to uphold the characterization of service as "Under Other Than Honorable Conditions," which was deemed appropriate based on the nature and gravity of the offenses.

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:

Liberal consideration does not apply to this applicant's request due to the severity of the crimes the to which the Applicant plead guilty. The Applicant's records revealed the Applicant was convicted and sentenced to prison during his time in service for electronic enticement of multiple minor children.

There is evidence the Applicant's mental health significantly decompensated during his time in prison resulting in forced medications. The Applicant's records revealed the Applicant was referred to mental health after he was notified of being under investigation. The Applicant denied mental health symptoms at that time beyond symptoms of stress from being under investigation. The intent of liberal consideration does not apply to premeditated misconducts or misconducts involving harm to others. There severity of the Applicant's misconduct is not outweighed by the Applicant's post-service mental health condition.

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 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 proper and equitable. Therefore, the awarded characterization of service shall remain "Under Other Than Honorable Conditions," the narrative reason for separation shall remain "Misconduct (Civil Conviction)," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 28 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)