

**SUMMARY:** The Applicant was discharged on 28 October 2019 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 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 the following documented misconduct leading up to their discharge:

- Article 15 for sleeping on post.
- Letter of Reprimand (LOR) for failure to go to a mandatory appointment.
- LOR for failure to go to a mandatory appointment.
- LOR for failure to go to an appointed place of duty.
- LOR for failure to go to a mandatory inspection, failure to return to duty, and disrespect to a senior Noncommissioned officer.

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 asserted that their discharge was inequitable, as it was based on an isolated incident that occurred during a mental health crisis. They stated that they continued to receive assistance from the Department of Veterans Affairs for issues directly related to this crisis, further highlighting the impact of their mental health struggles on their behavior at the time.

The applicant provided the following documents in support of their claim:

VA Rating Form

Signature Medical Discharge Form

The DRB concluded that the applicant's discharge resulted from a consistent pattern of minor disciplinary infractions deemed incompatible with continued military service. Although the applicant claimed their discharge was inequitable due to a mental health crisis, the board found no evidence linking their mental health conditions to the misconduct. Specifically, there was no demonstrated connection between the applicant's mental health struggles and their repeated failure to follow orders, report for duty, or meet other military obligations. Additionally, the applicant's VA documentation did not establish a link between their post-service compensation and the in-service infractions.

After thorough review, the board determined that liberal consideration did not apply, as the applicant's actions were deliberate, premeditated, and unrelated to mental health impairments. The applicant's repeated violations of military standards, combined with the lack of mitigating evidence, led the board to uphold the discharge. The characterization of service was deemed appropriate and consistent with the documented 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:

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. The applicant contended "my discharge was inequitable because it was based on isolated incidents that happened while I was going through a mental health crisis. I still receive help from Veteran's Affairs due to these issues."*

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

*A review of the applicant's in-service records revealed the applicant received outpatient, inpatient, and partial hospitalization mental health services during his time in service. The applicant's records revealed the applicant reported symptoms of sleep difficulty which were diagnosed and treated as sleep apnea during the applicant's time in service. The applicant's records also revealed the applicant reported feeling stressed related to marital problems, family problems, and occupational problems during his time in service and received the diagnosis of adjustment disorder.*

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

*A review of the applicant's DD214 revealed the applicant was discharged with a general character of service due to misconduct (minor infractions) with five years, five months, nine days' time in service. Although the applicant contended his discharge was inequitable because it was based on "isolated incidents that happened while I was going through a mental health crisis" a review of the applicant's discharge package revealed "during [the applicant's] time in the military, [the applicant] has received four Letters of*

*Reprimand (LORs), an Unfavorable Information File (UIF), and one Non-Judicial Punishment (NJP). The NJP was administered for possessing a cell phone in an Immediate Visual Assessment post and sleeping on post as a sentinel. His other misconduct includes failure to report to appointed place of duty on multiple occasions, failure to show for mandatory appointments and failure to report for duty after his leave ended.” A review of the applicant’s response to his NJP revealed the applicant stated to his command that he willfully chose to keep his cell with to make calls to a cardiologist and to keep in contact with his wife during his divorce process. There is evidence the applicant received mental health services during his time in service for symptoms of difficulty sleeping and was referred for a sleep study that revealed a diagnosis of sleep apnea. The applicant’s records also revealed the applicant stress related to marital problems and family stress with his sibling during his time in service. Based on a review of the applicant’s records and contentions there is no evidence of a nexus between the applicant’s in-service mental health condition and the misconduct(s) that to his discharge, specifically refusing to communicate with base housing regarding his move out on multiple occasions, wrongfully possessing a personal cell phone in an immediate visual assessment post and failing to return to work at the conclusion of leave.*

*The applicant submitted a summary of his VA compensation amount that did not detail any conditions for which he is receiving services or provide any information or testimony on the nexus between his post service compensation and the in-service misconducts that led to his discharge. Regarding the applicant’s concurrence with his VA ratings, the VA, operating under a different set of laws than the military, is empowered to offer compensation for any medical or mental health condition with an established nexus to military service, without regard to its impact on a member’s fitness to serve, the narrative reason for release from service, or the length of time that has transpired since the date of discharge. The VA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given condition may improve or worsen over the life of the veteran. At the “snapshot in time” of the applicant’s service, there is no evidence a mental health condition caused or mitigated the misconduct(s) that led to the applicant’s discharge.*

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

*There is no evidence of a nexus between the applicant’s in-service mental health condition and the misconduct(s) that to his 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.

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 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://afrbaportal.azurewebsites.us>

Attachment:  
Examiner's Brief (Applicant Only)