

SUMMARY: The Applicant was discharged on 10 October 2017 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) character of service for Pattern of Misconduct. The Applicant appealed for an upgrade of their character of service and a change to the narrative reason for separation.

The Applicant requested the Board be completed based on a records-only review. The Board was conducted on 12 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: an Article 15 for operating a vehicle, with a passenger, while drunk and a Letter of Reprimand (LOR) for driving under the influence.

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 requests consideration based on their significant personal development and contributions to society since the time of discharge. They contend their misconduct was a response to the aftermath of a deployment, confined to a brief and understandable period. The Applicant contends it has been seven years since the discharge without any recurrence of issues. The Applicant states they have had consistent counseling and support of a Christian community and successfully reintegrated into civilian life, nurturing stable and healthy relationships as a husband and father. The Applicant states they are near the completion of a bachelor's degree in nursing with four years of service in critical care with intention to attend nurse practitioner school.

The Applicant provided the following documents in support of their claim: DD 214, *Certificate of Release or Discharge from Active Duty*; Medical Documents – VA Rating; Character References; Registered Nurse Credential; Separation Packet; Professional Certificates; Academic Certificates

The DRB determined there was insufficient evidence of a mental health condition that excuses or mitigates the Applicant's misconduct that led to their discharge. The DRB commends the Applicant on the in-service and post-service accomplishments, but determined there was insufficient evidence to warrant an upgrade. The DRB noted that the Applicant has the opportunity to appear before the Board in a personal appearance and provide additional evidence of their post-service conduct such as a clear criminal record and alcohol abuse rehabilitation. The DRB recommends the Applicant address their contentions such as the factors laid out in the "Wilkie Memo" further discussed below if they intend to reapply to the Board for a personal appearance.

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 "PTSD" on the application. The Applicant contended "the Board should grant the requested change on the basis of equity and clemency, considering the significant personal development and contributions to society that have occurred since the time of discharge. The pattern of misconduct was not indicative of the individual's character but rather a response to the immediate aftermath of a deployment, confined to a brief and understandable period. It has been seven years since the discharge without any recurrence of issues, demonstrating sustained positive transformation. Through consistent counseling and the support of a Christian community, the individual has successfully re-integrated into civilian life, nurturing stable and healthy relationships as a dedicated husband and father. "

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

A review of the Applicant's records revealed the Applicant was command referred to Alcohol and Drug Abuse Prevention and Treatment (ADAPT) on two separate occasions during their time in service due to alcohol related misconducts and the Applicant participated in both alcohol education classes and level one substance use treatment. A review of the Applicant's records revealed the Applicant denied mental health symptoms during their time in service when asked directly by mental health providers and as recorded on pre and post deployment screeners. There is no evidence the Applicant received the diagnosis of PTSD during their time in service. There is no evidence the Applicant exhibited or endorsed any clinically significant indicators of PTSD during their time in service.

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

The Applicant's contentions are contradictory to the records available for review in the Applicant's administrative record. The Applicant contended their pattern of misconduct was in response to the "immediate aftermath of deployment." A review of the Applicant's records revealed the Applicant did receive a DUI within a few weeks of returning home from a deployment. The Applicant's records also

revealed the Applicant received a second DUI approximately a year later. A review of the Applicant's medical and administrative records revealed the Applicant denied problematic alcohol use, denied any mental health symptoms, declined referrals to mental health providers, and denied having any issues adjusting or re-adjusting from their deployment. The Applicant's records also revealed the Applicant was approved, from a mental health perspective, for specialty training after their first DUI. A review of the Applicant's records revealed the Applicant reported they received their second DUI after a night of socializing and heavy drinking with peers from their training cadre. There is no evidence a mental health condition caused or substantially contributed to the misconducts that led to the Applicant's discharge.

The Applicant submitted their VA rating and summary of compensation statement as evidence in support of their claim. The summary statement did not indicate what conditions the Applicant was receiving treatment for or how their summary of post-service financial compensation mitigated or excused the in-service misconduct that led to their discharge. Regarding the Applicant's concurrence with their VA rating, 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?

The Applicant's discharge is not mitigated or excused by an in-service mental health condition and 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 character of service or to change the narrative reason for separation.

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 "Pattern of Misconduct," and the reentry code shall remain "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://afrbportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)