

SUMMARY: The Applicant was discharged on 26 September 2018 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) character of service for Misconduct (Minor Infractions). The Applicant appealed for an upgrade of their character of service, a change to the discharge narrative reason, and a change to the reentry code.

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:

- Letter of Counseling (LOC) for failing to report to their assigned duty section on time.
- LOC for coming to work without properly shaving and they did not have a shaving waiver.
- LOC for fitness assessment failure.
- Letter of Reprimand (LOR) for failing to report to their assigned duty section on time; chronically late and had verbal counseling multiple times.
- LOR for failing to report to their assigned duty section. Made a false statement.
- LOR for fitness assessment failure.
- LOR for failing to obey a lawful order.

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 that they struggled with undiagnosed anxiety, depression, and sleep apnea during their service. They contend that their minor infractions pertain to sleep problems, causing them to oversleep

due to not hearing their alarms. They state they lived alone and were unable to be aroused and were late to work. The Applicant contends that due to their anxiety and depression, it was difficult for them to communicate their needs or ask for assistance. The Applicant stated they were evaluated by a health provider on base with no diagnosis for depression. They also stated they have been working full-time for the same company for over three years and received numerous accolades and awards such as "Employee of the Month" and "Employee of the Year."

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; Sleep Apnea and Anxiety Diagnoses; Character of Reference Letters; Current Supervisor; Family Members; Separation Packet.

The Applicant was discharged for multiple instances of misconduct due to reporting late to work, making a false statement, and failing to obey a lawful order. The command also considered the Applicants two fitness failures in a 12-month period. The Applicant's response to being late to work, documented on their LORs and LOCs, varied from oversleeping to being ill. It was later discovered that the Applicant had made a false statement as they were not ill, but had overslept. The Applicant obtained military legal counsel and responded to their discharge recommendation that they had lost their sense of motivation, but this experience has been a true wake-up call.

The DRB determined there was insufficient evidence of a mental health condition that excuses or mitigates the misconduct that led to the Applicant's discharge. The DRB commends the Applicant on their post-service accomplishments but determined there is insufficient evidence to warrant an upgrade.

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 "Members of the Board, I would like the opportunity to express to you why my discharge was improper and inequitable and request to be allowed an upgrade in my service to "Honorable discharge." I struggled with undiagnosed anxiety, depression, and sleep apnea during my service. My minor infractions pertain to sleep problems, causing me to oversleep due to not hearing my alarms while sleeping. Being a single airman living in the dorms, I was not able to be aroused from my sleep, and that led to me waking up late to work. Also, because of my undiagnosed anxiety and depression, it was difficult for me to communicate my needs and ask for assistance. After receiving formal counseling, I asked to be evaluated by a mental health provider on the base, but that resulted in the provider evaluating me as 'boring' and not providing me a medical diagnosis for depression. I did not know what sleep apnea was at the time to request a medical evaluation. I worked the mid shift, so I worked nights, making it difficult to do anything else during the day, because I was tired and not able to focus and concentrate." The Applicant also contended that they were overweight and less conditioned resulting in them failing their physical fitness test twice, struggled to focus, and did not have the motivation to care for themselves. Lastly, the Applicant contended "I feel that if more had

been done to diagnose me for sleep apnea and mental health, I would have been able to manage myself better and make the Air Force a career."

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

A review of the Applicant's in-service medical records revealed the Applicant was seen by a mental health provider after their supervisor noticed the Applicant's low motivation and encouraged them to seek mental health services. The Applicant's records revealed the Applicant attended two sessions and denied mental health symptoms and reported they preferred to spend time alone in their room talking to their friends and family stateside. The Applicant's records revealed they were seen again by mental health providers in the months prior to their discharge inquiring about a medical separation for symptoms of Attention-deficit/hyperactivity disorder (ADHD). The Applicant's records revealed that the Applicant again denied symptoms of depression or anxiety, but reported they kept "messing things up" and believed this may have been attributed to their symptoms of childhood ADHD. The Applicant's records revealed that when the provider explained to the Applicant that ADHD is an unsuiting condition and would not result in a medical discharge, the Applicant declined further services.

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 four years, eight months, and thirteen days time in service. A review of the Applicant's administrative records revealed the Applicant received four Letters of Reprimand and three Letters of Counseling during their time in service. A review of the Applicant's response to their discharge notification revealed the Applicant lost their sense of motivation.

A review of the Applicant's post-service medical evaluation revealed the Applicant was evaluated for sleep apnea six years post discharge and was determined by VA medical professionals to have "borderline/very mild" positional sleep apnea that did not meet criteria for medical intervention and was encouraged to consider lifestyle changes including increased physical activity and altered sleep position to resolve. There is no evidence the Applicant exhibited or endorsed any clinically significant features of a mitigating mental health condition during their time in service. The Applicant's records revealed the Applicant denied any mental health symptoms during their time in service. There is evidence the Applicant reported low motivation, a preference to play video games over in-person socializing, and reported missing their family, which led to their repeated tardiness and reduced hygiene, but are not mitigating mental health conditions. 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 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 discharge character of service, to change the narrative reason for separation, and to change the reentry code.

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 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)