

SUMMARY: The Applicant was discharged on January 19, 2023 in accordance with Department of the Air Force Instruction 36-3211, Military Separations, with a Under Other than Honorable Condititions character of service in lieu of trial by court martial. 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 31 October 2024. The Applicant was 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 Applicant's record of service included the following documented misconduct leading up to their discharge:

- Charge: Violation of the UCMJ, Article 107

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 she was targeted by her command after making a protected communication to Equal Opportunity. Through counsel, she asserts that this communication was improperly recorded, which is believed to be a violation of Air Force Instructions (AFI). As a result of her complaint, she was reassigned to the flight led by the individuals she had reported and subsequently placed under investigation by leadership. The investigating officer assigned to her case was the husband of a superior identified in her complaint, creating a clear conflict of interest. Despite official notification of this conflict by the applicant's legal counsel, no corrective action was taken. Counsel further argues that the applicant was subjected to reprisal. Throughout the adverse action process, counsel described the proceedings as mishandled, influenced by undue command pressure, and in violation of the applicant's constitutional due process rights. Ultimately, the applicant chose to separate in lieu of trial by court-martial, along with the consequences that decision entailed. The applicant describes her service as proficient, high-quality, and efficient, and believes she is deserving of the rights and privileges afforded to veterans who have served honorably. She respectfully requests an upgrade to an honorable characterization of service, as she believes it accurately reflects her time in uniform.

The DRB determined the applicant made a statement in January 2022 regarding accessing records at a party. The unit was notified of this in February 2022, and an Equal Opportunity (EO) complaint was initiated in March 2022. The allegation was substantiated, and charges were preferred in August 2022.

The applicant knowingly chose to accept separation in lieu of trial by court-martial, fully aware that it could result in an Under Other Than Honorable Conditions (UOTHC) discharge. No new evidence of reprisal or retaliation was presented beyond what had already been reviewed and considered by the command.

Therefore the board found no impropriety or inequality. The Board concluded the Applicant's misconduct was a significant departure from the conduct expected of all military members. The Applicant through counsel stated the discharge did not consider the good things done while serving in the Air Force. The DRB took note of the Applicant's duty performance as documented by their records. However, found the seriousness of the Applicant's willful misconduct offset the positive aspects of their service.

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.

Instructions on how to appeal an AFDRB decision can be found at <https://afrbaportal.azurewebsites.us>

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 "lieu of trial by court martial," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on 3 March 2025. 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

Attachment:
Examiner's Brief (Applicant Only)