

SUMMARY: The Applicant was discharged on 07 March 2012 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a Under Honorable Conditions (General) discharge for Misconduct (Minor Infractions). The Applicant appealed for an upgrade of their discharge characterization, a change to the discharge narrative reason, and a change to the reentry code and a change to the separation code.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 21 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:

- Article 15 for negligently failing to refrain from connecting an USB to a government computer
- Letter of Reprimand for failing to comply with a direct order
- Letter of Reprimand for derelict in duty to maintain standards in the workplace
- Letter of Reprimand for failing to go to assigned place of duty
- Letter of Reprimand for failing to go to assigned place of duty
- Letter of Reprimand for failing to go to a mandatory appointment
- Letter of Admonishment for failing to go to assigned place of duty
- Letter of Counseling for failing to go to assigned place of duty

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 requested an upgrade in all aspects of their discharge due to an undiagnosed mental health disorders, harassment, and sexual assault that took place while in the service.

The DRB determined that the Applicant's discharge from the Air Force was fair and equitable. A thorough review of the Applicant's administrative records revealed a pattern of misconduct, including an Article 15, five Letters of Reprimand (LORs), a letter of admonishment, and a letter of counseling. These repetitive infractions were the basis for the Applicant's discharge for misconduct. The Applicant's administrative corrective actions were primarily related to failing to report to the workplace and mandatory appointments on time. Although the Applicant acknowledged their performance was not satisfactory and promised to improve, the infractions continued.

The Applicant claimed that their discharge was due to an undiagnosed mental health disorder, harassment, and sexual assault that occurred during their military service. In support of their claims, the Applicant provided their Veteran's Affairs (VA) rating, which showed a diagnosis of posttraumatic stress disorder (PTSD) with insomnia due to military sexual trauma (MST), medical records, and a treatment letter. The Department of Veteran's Affairs, operating under a different set of laws than the military, is empowered to offer compensation for any medical 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. However, there is no evidence the Applicant exhibited or endorsed any clinically significant features of PTSD, or any other mental health condition, during their time in service. The Applicant did not provide any testimony or clarifying information regarding how their contended conditions of PTSD, other mental health, and sexual/assault harassment caused or contributed to the misconducts that led to their discharge.

Per DAFI 36-2023, *Secretary of the Air Force Personnel Counsel*, paragraph 3.2.4, "The DRB is not an investigative body. The Applicant bears the burden of providing evidence to overcome this presumption, and the board will only grant relief if it determines there is sufficient evidence to conclude the Applicant's discharge was not proper or equitable." Therefore, the DRB found no impropriety or inequity in the Applicant's discharge and denied their request for an upgrade to all aspects of the discharge.

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 boxes for "PTSD," "other mental health," and "sexual assault/harassment" on the application. The Applicant contended "I am asking for consideration to upgrade my discharge due to undiagnosed mental health disorder, harassment, and sexual assault that took place while I was in service."

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

There is no evidence the Applicant sought or received any mental health treatment during their time in service. There is no evidence the Applicant exhibited or endorsed any clinically significant features of

PTSD, or any other mental health condition, during their time in service. There is no evidence or records the Applicant reported or endorsed impacts of an experience of sexual assault during their time in service based upon a review of the Applicant's medical, mental health, and administrative records.

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 two years, four months, five days time in service. A review of the Applicant's discharge package revealed the Applicant received five Letters of Reprimand, two Letters of Counseling, one Letter of Admonishment and a nonjudicial punishment action. There is no evidence the Applicant sought or received any mental health treatment during their time in service. There is no evidence the Applicant exhibited or endorsed any clinically significant features of PTSD, or any other mental health condition, during their time in service. There is no evidence or records the Applicant reported or endorsed impacts of an experience of sexual assault during their time in service based upon a review of the Applicant's medical, mental health, and administrative records.

In contrast, a review of the Applicant's post-service records revealed the Applicant reported to post-service providers experiences of in-service sexual assault approximately ten years after their discharge. There is evidence the Applicant's pattern of misconduct began after the time period of their experience of sexual assault that they reported to their post-service providers. A review of the Applicant's misconducts revealed the Applicant responded to the disciplinary action with sentiments of feeling disconnected and forgetful, which may have been caused by the Applicant's experience of trauma from their experience of sexual assault. The Applicant did not provide any testimony or clarifying information regarding how their contended conditions of PTSD, other mental health, and sexual/assault harassment caused or contributed to the misconducts that led to their discharge. The burden of proof is upon the Applicant to demonstrate inequity or impropriety.

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

Based on the records available for review, there is no evidence the Applicant's exhibited or endorsed any clinically significant indicators of a mental health condition during their time in-service. Because the Applicant's discharge is not mitigated or excused, 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, to change the discharge narrative reason, and to change the reentry code, and to change the separation code.

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 26 November 2024. If desired, the Applicant can request a list of the Board members and their votes by writing to:

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)