

SUMMARY: The Applicant was discharged on 20 June 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, 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, a change to the reentry code, and a change to the separation code.

The Applicant appeared and testified before the Discharge Review Board (DRB), with counsel, via video teleconference using Zoom on 22 November 2024. A witness was present to testify on the Applicant's behalf.

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 Reprimand for failing to be at assigned duty location during scheduled work time
- Letter of Reprimand for derelict in the performance of duties by failing to properly inspect the hazardous material locker
- Letter of Counseling for derelict in the performance of duties by failing to properly inspect and account for items of a scraper kit prior to turning it in
- Letter of Counseling for failing to properly inspect the hazardous materials locker
- Letter of Counseling for lying to supervisor and reported late for duty without a valid reason

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.

On behalf of the Applicant the counsel contended the Applicant did not commit the misconduct they were accused of and instead it should have been classified as performance issues. They claimed the separation

authority erred in separating the Applicant and assigning a General characterization for the discharge because the evidence weighed in favor of retention or an Honorable service characterization. The Applicant claimed they were suffering from a mental health condition while in service and at the time of the alleged misconduct which qualifies them for consideration and relief pursuant to the Hagel, Kurta, and Wilke memorandums. They state their overall service record and post-discharge conduct are deserving of favorable relief.

The Discharge Review Board (DRB) evaluated the Applicant's case and determined that their discharge from the Air Force was fair and equitable. The Applicant, assisted by their counsel, claimed that they did not commit the misconduct they were accused of. Instead, the minor infractions were related to performance issues rather than misconduct, and that they were experiencing mental health problems at the time.

However, a thorough review of the Applicant's records revealed a pattern of repeated offenses, including five infractions committed over an eight-month period. Despite receiving counseling and progressive discipline, the Applicant failed to demonstrate significant improvement and struggled to meet the standards expected of Air Force personnel. As a technician in the Airlift and Special Mission Aircraft Maintenance career field, the Applicant held a critical role in ensuring the safety and effectiveness of aircraft operations.

Unfortunately, their misconduct posed a significant risk to the safety of crew members and the integrity of multi-billion-dollar aircraft. The Applicant's command was aware of their mental health diagnosis and took it into consideration during the discharge process. Nevertheless, the Applicant's persistent disciplinary problems and lack of rehabilitation led to their discharge from the Air Force. After careful consideration, the DRB denied the Applicant's request for an upgrade, concluding that their discharge was proper and in accordance with Air Force regulations and procedures.

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" and "other mental health" on application. The Applicant, through counsel, contended "the Applicant was suffering from a mental health condition while in service and at the time of the alleged misconduct, which qualifies them for consideration and relief pursuant to the Hagel, Kurta, and Wilke Memorandums..."

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

A review of the Applicant's in-service records revealed the Applicant received mental health service during their time in service for difficulty adjusting to the military lifestyle, anxiety, marital issues, occupational stressors, and pre-service issues including maladaptive eating patterns and childhood trauma. The Applicant's records revealed the Applicant received the diagnosis of borderline personality disorder during their time in service. A review of the Applicant's records revealed the Applicant was evaluated by multiple providers during their time in service who concluded the Applicant did not meet criteria for PTSD and their symptoms were best diagnostically depicted as borderline personality 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 three years, five days time in service.

There is evidence the Applicant received the diagnosis of borderline personality disorder during their time in service. It is possible the Applicant's personality disorder traits caused or contributed to their behavioral and misconduct issues in service; personality disorders are considered incompatible for military service. Personality disorders and traits are conditions of a developmental nature- they are pervasive, stable, persistent, and often resistant to treatment. The Applicant's diagnosis of personality disorder may explain the Applicant's misconduct, but it does not mitigate the misconduct. Further, the Applicant, through counsel, contends the Applicant did not commit the misconduct that led to their discharge, thus liberal consideration does not apply to this Applicant's request as the Applicant contended, they did not commit the misconduct that led to their discharge; thus, a mental health condition would not mitigate misconduct that did not occur.

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

Based on review of the Applicant's records, the Applicant's mental health diagnosis and unsuiting condition of borderline personality disorder were known and fully considered by the Applicant's command during the discharge process. A review of the Applicant's discharge package revealed the discharge authority stated "In [the Applicant's] response to the notification of administrative discharge, they stated they had been engaging in appointments with mental health since May 2021, and in October 2022 they were diagnosed with borderline personality disorder. In a mental health memo from [provider], dated, they stated that while the service member does not meet retention standards for continued military service, there is no evidence that the member meets diagnostic criteria for any other condition that would require referral to a medical evaluation board for administrative adjudication. [The provider] concluded their memo by stating that the service member has been informed and expressed understanding that separation based on the diagnosis does not qualify for disability benefits. However, [the commander's] recommendation for discharge is not based on a mental health diagnosis, it is based on the disciplinary problems the unit has tried, unsuccessfully, to address with [the Applicant]." No inequity or impropriety was found in review of the Applicant's records, thus the applicant's discharge is 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.

Should the Applicant wish to appeal this decision, the Applicant must seek relief before the Air Force Board for Correction of Military Records (AFBCMR) in accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*.

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 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)