

SUMMARY: The Applicant was discharged on 07 May 2013 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) discharge for Misconduct (Minor Infractions). The Applicant appealed for an upgrade of their discharge characterization and a change to the discharge narrative reason.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 19 December 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 Reprimand for failing to go to their place of duty at prescribed time
- Letter of Reprimand for failing to go to their place of duty at prescribed time
- Letter of Reprimand for failing to go to their place of duty at prescribed time
- Letter of Reprimand for repeated failure to go to their place of duty at prescribed time
- Letter of Reprimand for fraudulent use of base decal/unauthorized motorcycle use
- Letter of Reprimand for failure to obey a direct order and insubordinate conduct toward an NCO; failing to perform duties of operationally testing their communications equipment

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 to their characterization and narrative reason. They stated they experienced severe bullying, harassment, and threats daily from their peers, which greatly affected their mental and emotional well-being. They stated they struggled with constant fear and anxiety due to the

relentless harassment. The Applicant stated they were put on buspirone which removed them from all their duties, and completely messed them up mentally for years even after their discharge. They believe an upgrade to their discharge would rectify their unjust circumstances under which they were released.

The DRB determined the Applicant's discharge from the Air Force was fair and equitable. The Applicant's discharge from the Air Force was precipitated by a pattern of misconduct, including three instances of failing to report to their place of duty at the prescribed time, which resulted in the issuance of six letters of reprimand (LORs) within a nine-month period. In response to their discharge, the Applicant cited their anxiety diagnosis, which was established in September 2012. However, after consultation with the mental health clinic, it was determined that the diagnosis did not provide a sufficient basis for a discharge due to mental disorder. Additionally, the Applicant admitted to having a long-standing history of anxiety symptoms that existed prior to their military service. The Applicant's prescribed medication, buspirone, led to their removal from flight duties due to the medication's effects, consequently disqualifying them from service as a Tactical Air Control Party (TACP) member. Although an alternative anti-anxiety medication was offered that would have allowed the Applicant to regain flight status, they declined to switch and instead requested medical disqualification and a change of career field. This decision was documented in the mental health advisor's notes, which stated that the Applicant had been permanently removed from flying duties by Flight Medicine due to their medication. Additionally, the Applicant expressed regret over their career choices and requested an upgrade to an honorable discharge, citing concerns that a less-than-honorable discharge would impact their future educational prospects.

The Applicant's contentions are contradicted by their records. They contended they were in a toxic work environment but denied any stressors at work to their Flight Surgeon in September 2012. While they reported being teased about their anxiety diagnosis and experiencing difficulties with their job, their records indicate the Applicant had anxiety prior to those events. The Applicant's claims of long-term mental anguish caused by buspirone was also contradicted by their medical records which indicate that the Applicant stated the medication significantly improved their symptoms and provided stability during their service. Furthermore, the Applicant was offered a different anxiety medication that would allow them to remain in flying status, but they denied the offer.

The DRB denied the Applicant's request for an upgrade to the service characterization and a change to their narrative reason given the Applicant's failure to provide substantiating evidence and the contradictions present in their medical records. Per DAFI 36-2023, *The Secretary of the Air Force Personnel Council*, paragraph 3.2.4 "The DRB is not an investigative body and presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to overcome this presumption. The presumption of regularity dictates that, absent evidence to the contrary, commanders, supervisors, and other officials involved with an action acted fairly and in good faith. 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.

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 marked "OTHER MENTAL HEALTH" on their application, DD Form 293, to the DRB and contended they experienced the trauma of severe bullying, harassment, and threats daily from their peers that affected their mental health and emotional well-being. They were also bothered by sexual comments made towards their now ex-wife, enlisted members walking around the office with weapons, and these members would party like a college frat party. The hostile environment and lack of protective measures implemented by the officer led to trust issues. They struggled with the constant fear and anxiety that arose from the relentless harassment that ultimately impaired their ability to perform their duties to the best of their abilities. They ended up being prescribed Bupropion (Wellbutrin) which removed them from all their duties and messed them up mentally for years even after their discharge.

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

The Applicant received individual psychotherapy and medication management treatment services for anxiety initially triggered and caused by their marital problems from the period of 01 February 2012 to 26 April 2013 during service. Their treatment records from their PCM who provided medication management treatment services to them did report they had anxiety before they entered the military. There is no evidence their military service aggravated their prior service anxiety/condition. With mental health treatment, specifically medications (Bupropion/Wellbutrin), their anxiety improved, which is contrary to their contention. There is no evidence or records that their traumatic experiences of being severely bullied, harassed, and threatened daily by their peers caused them to have anxiety. Their treatment notes from December 2012 did report that they were feeling isolated and teased by their peers because they were unable to do their job because of their mental health diagnosis. This report indicated they had anxiety before the events of being isolated and teased by their peers, and they were also DNIF or needed a waiver to continue performing their duties because of their psychotropic medication usage before the events. Additionally, they reported to their Flight Surgeon in September 2012 that they denied having any stressors at work and this report also predated the events.

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

The Applicant was discharged from service for failing to refrain from using a government vehicle for their personal use, making a false official statement that they did not have the keys to the government vehicle, failing to operationally test their communications equipment, failing to refrain from wrongfully removing the base decals of their ex-wife's legally registered vehicle and affixing the decals on their unregistered motorcycle, failed to refrain from operating a motor vehicle without attending the approved safety course, failed to go to their morning physical training, failed to go to mandatory formation at 0700 hours on two occasions, and failed to go [redacted] building from June 2012 to February 2013. While these acts of misconduct coincided with their mental health treatment during service, there is no evidence their mental health condition caused these misconducts. Their medication of Bupropion or Wellbutrin, which was used to treat anxiety, may have caused them to fail to go to their appointed place of duty because their flight surgeon did report in October 2012 that they were unable to wake up in the morning for PT was secondary from the medication. The medication may have caused their other failure to go incidents, but their anxiety or medication usage did not cause their remaining numerous misconducts. Some of their misconduct also appeared to have been intentional. There is no evidence they were in emotional distress or had a mental health condition impairing their judgment or affecting their behaviors at the time of most of their misconduct. Therefore, their mental health condition does not excuse or mitigate their discharge.

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

Since their mental health condition does not excuse or mitigate their discharge, their mental health condition also does not outweigh their discharge.

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 and to change the discharge narrative reason.

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 14 January 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

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

Attachment:
Examiner's Brief (Applicant Only)