

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2018-00453
<p><b>SUMMARY:</b> The applicant was discharged on 12 December 2017 in accordance with Air Force Instruction 36-3208, <i>Administrative Separation of Airmen</i>, with a General discharge for Misconduct (Drug Abuse). The applicant appealed for an upgrade of his discharge characterization, a change to the discharge narrative reason, and a change to the reenlistment eligibility code.</p> <p>The applicant was not represented by counsel.</p> <p>The applicant requested the board be completed based on a records only review. The Board was conducted on 20 July 2023.</p> <p>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.</p> <p><b>DISCUSSION:</b> 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 reenlistment eligibility 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.</p> <p>The applicant's record of service included an Article 15 for wrongful use of marijuana.</p> <p>The documentary evidence the Board considered as part of the review includes, but is not limited to the DD form 293, <i>Application for the Review of Discharge from the Armed Forces of the United States</i>, 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.</p> <p>The applicant contended that his overall conduct was good and his ability to serve was impacted and impaired by martial problems, psychiatric problems, and he should have been medically separated.</p> <p>A review of the applicant's record revealed he was punished under Article 15 for wrongful use of marijuana and the command initiated administrative discharge. The applicant had previously been recommended for the Temporary Disabled Retired List (TDRL) for major depressive disorder, hypersomnia, and hypersomnolence disorder. His dual-action case was forwarded to the Secretary of the Air Force Personnel Council for adjudication and the Board weighed the nature and magnitude of the misconduct against the applicant's medical condition and determined that administratively separating the member under AFI 36-3208 was appropriate.</p> <p><b>LIBERAL CONSIDERATION:</b></p> <p>Due to evidence of a mental health condition found in the applicant's medical 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, or psychiatrist. Specifically, the Board reviewed the four questions the</p>	

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 post-traumatic stress disorder (PTSD); Traumatic Brain Injury (TBI); sexual assault, and sexual harassment. The Board considered the following:

1. Did the veteran contend that a condition or experience may have excused or mitigated their misconduct or discharge?

*The applicant checked the box for "other mental health" on the application. The applicant contended "The presumption of regularity that might normally permit you to assume that the military service acted correctly in characterizing my specific service as less than honorable does not apply to my case because my average conduct was good and my ability to serve was impacted and impaired by marital problems, psychiatric problems, I should have gotten medically discharged."*

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

*There is evidence the applicant received mental health care during his time in service. The applicant's records reflected he received the diagnoses, in service, of alcohol use disorder (severe), cannabis use disorder (severe), and relationship distress.*

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

*The applicant's records revealed he was discharged with a General characterization of service due to misconduct (drug abuse). A review of the applicant's records revealed his discharge was processed under the considerations of dual-action processing and was recommended by the Secretary of the Air Force Personnel Council for administrative discharge with an Under Honorable Conditions (General) service characterization.*

*The applicant's request for a medical discharge is outside of the authority of the DRB; if the applicant wishes to have his discharge reviewed for consideration of a medical discharge, the Board directs the applicant to the Board for Correction of Military Records (BCMR). In considering the applicant's request for an upgrade to an Honorable character of service, a review of his medical records revealed he was assessed by mental health as part of a Medical Evaluation Board (MEB) for a medical issue at which time he denied having any mental health conditions. The applicant's records reflected MEB processing was paused at a later time due to the applicant being under investigation for misconduct, at which time he reported mental health symptoms and was re-opened to mental health services. The applicant made no claim or contention that a mental health condition caused or substantially contributed to the misconduct that led to his discharge. There is evidence the applicant received mental health services during his investigation and discharge processing. While an investigation can be stressful, it did not constitute a mental health condition that mitigated the misconduct that initiated the legal proceedings. There is no evidence a mental health condition caused or mitigated the misconduct that led to the applicant's discharge. The applicant's request for a medical discharge is outside the scope of the DRB and the Board will not opine on the matter.*

4. Does that condition or experience outweigh the discharge?

*Because the applicant's discharge is not mitigated, it 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 impropriety or inequity.

**FINDING:** The DRB voted unanimously to *deny* the applicant's request to upgrade his discharge characterization to Honorable, to change the discharge narrative reason to Secretarial Authority, and to change the reenlistment eligibility code to 2C or 3K.

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, the narrative reason for separation shall remain, and the reentry code shall remain. The Air Force DRB (AFDRB) results were approved by the board president on 25 July 2023. 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, NAF Washington, MD 20762-6602

Instructions on how to appeal an AFDRB decision can be found at

<https://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

