

SUMMARY:

The applicant was discharged on 06 November 2014 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airman* with a General Discharge for Misconduct (Drug Abuse). The applicant appealed for an upgrade of his discharge characterization.

The applicant was not represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 13 July 2023.

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 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.

The applicant's record of service included an Article 15. His misconduct included: Wrongful use of marijuana.

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 Honorable because he felt the discharge was a result of inadequate treatment for PTSD and anxiety. He explained that he tested positive for marijuana, but at the time, he was struggling with PTSD resulting from childhood sexual abuse.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The trauma and subsequent mental health condition/s were determined to have existed prior to service, with no evidence of aggravation by military service. Therefore, this request does not meet the intent for liberal consideration. The discharge received by the applicant was deemed appropriate.

LIBERAL CONSIDERATION:

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 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 have a condition or experience that may excuse or mitigate the discharge?

The applicant checked the box for "PTSD" on the application. The applicant contended "My discharge in 2014 was a result of a failed drug test for marijuana. At the time I was struggling with PTSD resulting from childhood sexual abuse."

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

A review of the applicant's records revealed the applicant had an extensive pre-service history of mental health and substance use encounters and received the diagnoses of depressive disorder and polysubstance abuse prior to service. A review of the applicant's in-service records revealed the applicant reported distressing symptoms related to his childhood trauma to mental health providers. Based on a review of the applicant's records, the applicant's condition existed prior to service (EPTS) and there is no evidence of service aggravation.

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

A review of the applicant's records revealed the applicant was discharged with a General character of service due misconduct (drug abuse) after two years, one month, and 19 days time in service. The applicant contended he used marijuana to cope with his childhood sexual abuse that occurred prior to service. A review of the applicant's pre-service records revealed the applicant had a pre-service history of maladaptive alcohol and drug use. Based on the applicant's testimony and the available records, these conditions are considered to have existed prior to service (EPTS) and there is no evidence of service aggravation. Thus, the applicant's request is not considered further under the intent of liberal consideration. The applicant made no other contentions related to a potentially mitigating condition or experience during his time in service, thus the applicant's discharge is not mitigated.

4. Does that condition or experience outweigh the discharge?

Based on the available records, the applicant's contended experience is an EPTS condition with no evidence of service aggravation, thus is excluded from the intent of liberal consideration. No error in the applicant's favor was found in review of the applicant's records; as such, 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.

FINDING: The DRB voted unanimously to **deny** the applicant's request to upgrade his discharge characterization, to change the discharge narrative reason, and to change the reenlistment eligibility code.

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 "General," the narrative reason for separation shall remain "Misconduct (Drug Abuse)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the board president on 2 August 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)

