

## AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT

**SUMMARY:** The applicant was discharged on 25 September 2013 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, 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 associated separation code, and a change to the reenlistment eligibility code.

The applicant was represented by counsel.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, via video teleconference using Zoom on 25 July 2023. No witnesses were 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 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 a special court-martial order for wrongful use of over-the-counter medications and wrongful use of psilocybin.

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.

Through counsel, the applicant contended the chain of command made an error in discretion when they discharged him with a General service characterization. Counsel argued the applicant was a young Airman that made immature decisions. Drug use within the unit was rampant and the applicant found himself giving into peer pressure. The applicant's record was otherwise immaculate, and he should have been given the opportunity to rehabilitate from his misconduct. Furthermore, the judge in the applicant's court-martial would have been in the best position to determine if he should be discharged, yet the judge determined the applicant should not be discharged. Finally, counsel argued the command undermined the judge's sentence and initiated separation proceedings, clearly demonstrating an error of discretion that continues to prejudice the applicant to this day.

A review of the applicant's record revealed he was tried at a special court-martial for abusing over the counter medication to get high and wrongful use of psilocybin. Prior to the trial the applicant voluntarily entered a plea agreement with the government and agreed to plead guilty to all charges and specifications in exchange for a sentence that did not include a punitive discharge or confinement in excess of 90 days. The applicant was sentenced by a military judge to 75 days of confinement, forfeitures of pay, and reduction to E-1. After confinement was served the command administratively discharged the applicant.

The DRB reviewed the applicant's entire service record and considered his testimony and found no evidence of impropriety or inequity to warrant an upgrade of the discharge or change to the re-entry code. The Board noted the applicant was serving in a critical position at the time of his discharge and used illegal substances on multiple occasions. The Air Force has a zero-tolerance policy for drug use and the applicant did not meet the retention criteria, therefore, the unit acted appropriately by *administratively* discharging the applicant.

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 commended the applicant's candor and his progression with his education and employment post-service. The Board concluded the applicant was remorseful, accepted responsibility for his actions, and considered the amount of time that had transpired, and determined there was sufficient evidence to support a change to the applicant's narrative reason for discharge.

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

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, and the reentry code shall remain. Furthermore, the Board found the narrative reason to be inequitable, therefore, the narrative reason for separation shall change to "Secretarial Authority". The Air Force DRB (AFDRB) results were approved by the board president on 31 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)