

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT	CASE NUMBER FD-2023-00180
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SUMMARY: The applicant was discharged on 20 December 2017 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Misconduct (Drug Abuse). The applicant appealed for a change to his reentry code.

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 14 September 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 for wrongful use of hydrocodone.

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 made no contentions. He claimed he took his wife's prescription medication. He admitted to violating the Air Force's zero tolerance drug policy and claimed this was the biggest mistake he ever made, and a decision he regretted. He requested his reentry code be changed to allow him to reenlist in the military and make amends for the mistakes of his past.

A review of the applicant's record revealed he tested positive for hydrocodone during urinalysis testing. His specimen tested at 428 ng/ml and the DoD cutoff for hydrocodone is 100 ng/ml per DoDI 1010.16, *Technical Procedures for the Military Personnel Drug Abuse Testing Program*. He was punished under Article 15, UCMJ for the offense. In his response to the Article 15 he admitted to the use and displayed remorse for his actions. He claimed he was in excruciating pain related to the physical demands of his military duties and should have sought medical attention instead of resorting to the use. The applicant submitted multiple character reference letters with his response to the Article 15 and all praised him for his good work ethic.

In making their decision regarding the applicant's request to change his reentry code, 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 concluded it is consistent with military custom and practice to honor sacrifices and achievements, to punish only to the extent necessary, to rehabilitate to the greatest extent possible, and to *favor second chances* in situations in which individuals have paid for their misdeeds. Additionally, relief is generally more appropriate for non-violent offenses than for violent offenses. Furthermore, the Board determined the applicant accepted responsibility for his misconduct and showed significant remorse for his actions. Finally, the Board found merit in the aggravating and mitigating facts related to the applicant's misconduct and determined relief was warranted.

FINDING: The DRB voted unanimously to *approve* the applicant's request to change his reentry code.

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 granted relief on the basis of equity. Therefore, the awarded characterization of service shall remain "General," the narrative reason for separation shall remain "Misconduct (Drug Abuse)," and the reentry code shall change to "3K." The Air Force DRB (AFDRB) results were approved by the board president on 15 September 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://afrbaportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)