

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT****SUMMARY:**

The applicant was discharged on 26 August 2019 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airman*, with a Under Other Than Honorable Conditions 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 10 August 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: Between on or about 13 August 2018 and on or about 16 February 2019, on divers occasions, wrongfully use 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 indicated that he has taken accountability for his actions and is doing his best to become a better person. He asked that the discharge be upgraded so that it does not stop him from getting a job.

After a thorough review of the record and the applications contentions, the DRB determined that the discharge received was harsh, and inequitable, for the misconduct committed.

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.

6g. The relative severity of some misconduct can change over time, thereby changing the relative weight of the misconduct in the case of the mitigating evidence in the case.

Marijuana use is still unlawful in the military, but it is now legal under state law in some states and it may be viewed, in the context of mitigating evidence, as less severe today than it was decades ago.

The DRB determined that the weight of this misconduct is not deserving of an Under Other Than Honorable Discharge, therefore concluded that an upgrade to a General discharge is warranted.

**FINDING:** The DRB voted unanimously *approve* the applicant's request to upgrade his discharge characterization to "General." It voted unanimously to *deny* a change the discharge narrative reason and reentry 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 contention, summary of service, service/medical record entries, and discharge process, the Board found the discharge was inequitable. Therefore, the awarded characterization of service shall change to "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 25 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)