

**SUMMARY:**

The applicant was discharged on 29 August 2019 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 her discharge characterization and a change to the discharge narrative reason.

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 21 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 multiple Article 15s. Her misconduct included: Wrongful use of Marijuana between 26 March 2018 and 16 April 2018; Wrongful use of Marijuana between 21 May 2018 and 11 June 2018.

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 the actions of a handful of individuals destroyed her career, future, and mental health. She indicated that she was outed by a couple of coworkers and was subsequently harassed and hazed by everyone in the firehouse. She indicated that, with no help from the IG and her First Sergeant, she figured the easiest way out of the Air Force was to fail a drug test.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. Despite the applicant being fully aware of the Air Force policy of zero tolerance for illegal drug use, the applicant chose to use. Additionally, the applicant indicated that she used, knowing that it would result in a discharge. The Board determined that the discharge received was 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 boxes for "PTSD, other mental health, sexual assault/harassment, DADT, transgender, and reprisal/whistleblower" on the application. The applicant's contentions of PTSD, other mental health and sexual assault/harassment are the only contentions that will be considered under the intent of liberal consideration. The applicant contended "I went into the military to become myself and serve my country and community. The actions of a handful of people at [named AFB] destroyed my career, my future, and my mental health."*

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

*A review of the applicant's records revealed no evidence the applicant endorsed or exhibited any clinically significant indicators of PTSD, or any other mental health condition, during the applicant's time in service. The applicant's records indicated the applicant was command referred to and participated in ADAPT services due to multiple positive drug screens. The applicant's ADAPT records revealed the applicant endorsed social marijuana use with skateboarding peers. The applicant also endorsed multiple civilian and military peer groups that the applicant identified as social groups and sources of support. The applicant's records revealed the applicant denied any mental health symptoms for the duration of her time in service and declined referrals to mental health.*

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

*The applicant's DD214 revealed the applicant was discharged with a General character of service due to misconduct (drug abuse) with one year, six months and nine days' time in service. A review of the applicant's available in service and post service records revealed the applicant chose to use marijuana in a social setting and with the understanding and intention that using marijuana would result in discharge. The applicant stated in the response to discharge notification "My actions were a combination of poor decision making, falling into temptation, and allowing stress to dictate my actions." The applicant's records reflect the applicant received medical care and case management service from multiple medical professionals during the applicant's time in service and there is no evidence the applicant reported or endorsed any symptoms or clinically significant indicators of a mental health condition. There is evidence the applicant reported sleep difficulties related to a physical injury sustain in service, and it is also noted the applicant reported a pre-service history of marijuana use, which may explain the applicant's drug use, but it does not mitigate the applicant's misconduct. The applicant's testimony, submitted with the application, that contended she experienced what she perceived to be harassment is accepted. There is no evidence or records the applicant reported or endorsed harassment during her time in service to medical providers, mental health providers, any in the chain of command, or any other support agency, nor is this requisite for the application of liberal consideration. The applicant reported she chose to use drugs in a way that was incompatible with military service, which may explain the applicant's drug use, but it does not mitigate the applicant's misconduct. At the "snapshot in time" of the applicant's service, there is no evidence the applicant had a mental health condition that caused or mitigated the misconduct which led to the applicant's discharge.*

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 inequity or impropriety.

**FINDING:** The DRB voted unanimously to *deny* the applicant's request to upgrade her discharge characterization, to change the discharge narrative reason, and to change the 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 issues, summary of service, service/medical record entries, and discharge process, the Board found the discharge was proper and equitable/improper/inequitable. 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 26 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://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

