

**SUMMARY:**

The applicant was discharged on 07 July 2021 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 a change to the reentry code.

The applicant was represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 12 October 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 reentry 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 so that he may use his GI Bill Benefits. He indicated that he has grown as a person, both mentally and intellectually.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. With over 5 years of service, the applicant was well aware of the Air Force policy of zero tolerance for illegal drug use. The Board understood the applicant's present service characterization renders him ineligible for Department of Veterans Affairs education benefits. However, this is not a matter of inequity or impropriety which would warrant an upgrade.

**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 "other mental health" on the application. The applicant made no other claims or contentions related to an in-service mental health condition or experience. The applicant contended "I would like to have my discharge upgraded so that I can utilize my educational benefits. I care about my image and want to show that I have learned from my mistake and grown as a person, both mentally and intellectually."*

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

*A review of the applicant's records revealed the applicant sought and received mental health services during his time in service. The applicant's records revealed he reported to providers that he was experiencing stress related to separation from his family, financial difficulties, and legal problems. The applicant's records reflect the applicant received the diagnosis, in service, of adjustment disorder with depressed mood.*

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

*The applicant's records reveal the applicant was discharged with a General character of service due to misconduct (drug abuse) with six years, six months, and twenty-nine days' time in service. The applicant's records revealed the applicant endorsed symptoms of low mood and difficulty sleeping subsequent to his marital separation at which time his wife moved away with their children. The applicant's records revealed the applicant endorsed financial difficulties due to child support payments and feelings of guilt for not being able to see his children for which he sought mental health services after he had been notified of his administrative separation for misconduct (drug abuse). There is no evidence or records a mental health condition caused or contributed to the misconduct that led to the applicant's discharge. Other than checking the box for "other mental health" on the application, the applicant did not make any contentions that a mental health condition caused or contributed to the misconduct that led to his discharge.*

4. Does that condition or experience outweigh the discharge?

*Because the applicant's discharge is not mitigated by a mental health condition, 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 his 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. 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 7 November 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)

