

**SUMMARY:**

The applicant was discharged on 05 April 2016 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.

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 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. Her misconduct included: With the intent to deceive, make an official statement to OSI that she has never used marijuana, which statement was totally false; wrongfully used 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 her husband verbally and physically assaulted her. She indicated that eventually, she requested a protective order, after 8 years of mental warfare and domestic abuse. She concluded that the use of marijuana was under the duress of her husband.

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 being aware of the Air Force policy of zero tolerance for illegal drug use, the applicant chose to use. Additionally, the Board noted that the applicant's in-service and post service accounts of the misconduct that led to the discharge are contradictory.

**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 "other mental health" and "intimate partner violence/domestic violence" on the application. The applicant contended "I served in the Air Force with honor, excelling in BMT all the way through Air Traffic Control certifications and training new Airmen in the tower myself. I married [spouse] in January 2015 and began falling for his lies. He claimed that he was a Marine Veteran among verbal and physical assaults. Ultimately, I requested and was granted an order for protection in November 2022 following 8 years of marital warfare and domestic abuse. The use of marijuana was under duress of my husband. I am not the person that left the Air Force, I am the person that enlisted."*

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

*A review of the applicant's records revealed the applicant received mental health services through her primary care provider and the integrated behavioral health clinic (IBHC) during her time in service. The applicant's records reflect the applicant was command referred to ADAPT due to a positive drug test and deferred and then declined substance use services. Based on a review of the applicant's in-service records, the applicant received the diagnosis, in service, of unspecified anxiety disorder.*

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

*A review of the applicant's DD214 revealed the applicant was discharged with a General characterization of service due to misconduct (drug abuse) with two years, five months and one days' time in service.*

*Based on the available evidence and records, the applicant's experience of intimate partner violence as likely as not occurred post-service. There is no evidence or records the applicant reported or endorsed indicators of intimate partner violence during her time in service. The applicant's records revealed the applicant reported episodic anxiety related to being around her husband's family but denied on multiple occasions any instances or situations in which the applicant was being verbally or physically hurt, threatened, or made to feel afraid.*

*A review of the applicant's post service records revealed the applicant reported her experience of intimate partner violence began in 2016; the applicant's records revealed her marijuana use occurred between 18 January and 9 February 2016. The applicant's in-service and post service accounts of the misconduct that led to her discharge are contradictory.*

*There is evidence the applicant endorsed episodic anxiety. The applicant stated in her "Written Presentation to Article 15" memorandum "[In 2015] I was unable to function normally because I was uncharacteristically lightheaded, unenergetic, nauseous, irritable, had migraines, and even passed out. Since then, I have had a similar instances of severe anxiety attacks, so much so that my family has noticed a pattern of anxiety. I did not seek medical attention because I feared being medically disqualified to perform my job and positively contribute to the Air Force mission. Because my husband had legally used medical marijuana while living in Arizona, he recommended that I try something similar until we found another solution. Therefore, I experimented with medicinal THC liquid concentrated to treat my symptoms. Still, I plan to speak to a counselor or other recommended specialist to determine the cause of my anxiety and alternative treatments." Based on a review of the applicant's records, there is no evidence the applicant endorsed or exhibited any clinically significant indicators prior to her positive drug test. The applicant*

*stated in her response to her Article 15 that she knowingly chose to use marijuana instead of seeking approved treatment for her symptoms; this may explain the applicant's behavior, but it does not mitigate the applicant's misconduct. It is unlikely the applicant's episodic anxiety would mitigate the applicant's misconduct of willfully making a false statement with intent to deceive.*

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. 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 3 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)

