

**SUMMARY:**

The applicant was discharged on 28 March 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an 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 14 December 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, a Letter of Reprimand, and multiple Letters of Counseling. His misconduct included: wrongfully used tetrahydrocannabinol; Failed to provide proof that he had received the COVID-19 vaccine; Failed to go at the time prescribed to his appointed place of duty (x2).

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 contended that the conditions at his unit cause trauma that follows him to this day. He went on to explain that he made multiple attempts to express his desire to separate. He understood that his method of separation wasn't the correct way to get out, but justice would not be served by his leadership. The applicant also mentioned other Airmen by name who were trying to get out of there as well. They got out by Mental health separation, suicide, and an early separation program.

After thorough consideration, the DRB determined that the characterization received for use of THC was harsh. The applicant's contention of mental health conditions do not mitigate the misconduct. However, despite the applicant's inappropriate method to get out of the military, The Board concluded that a General Discharge was more appropriate.

## **LIBERAL CONSIDERATION:**

Due to evidence of a mental health diagnosis and/or experiences of sexual assault or sexual harassment and/or records documenting that one or more symptoms of mental health conditions and/or experiences of sexual assault or sexual harassment existed/occurred during military service found in the applicant's 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, psychiatrist or social worker with training on mental health issues connected with PTSD or TBI or other trauma. 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 PTSD; 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" and "other mental health" on the application. The applicant contended "Conditions of FMF CPTS caused trauma that follows me to this day. If you look into Shaw AFB prior airmen you will find [named SrA] (Mental Health Separation), [named A1C] (Suicide), and [named Amn] (early separation program) all found a way out of the career. I understand that my method of separation wasn't the correct way, but justice would not be served from leadership. As I made multiple attempts expressing the need to separate. Now I pray that justice would be served with a discharge upgrade."*

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

*The applicant's records revealed the applicant was command referred to ADAPT due to a positive drug test during his time in service after disclosing to his leadership that he was using THC in attempt to get discharged. The applicant's records revealed the applicant was evaluated by mental health during his time in service due to reports of difficulty dealing with the suicide death of a friend. The applicant's mental health records revealed the applicant reported his primary stressor as feeling stuck in the military and wanting to get out by any means necessary. The applicant's record indicated the applicant communicated to his providers that his symptoms would be alleviated if he was no longer affiliated with the military. There is no evidence the applicant received the diagnosis of PTSD during his time in service; the applicant was evaluated for PTSD during his time in service and did not meet criteria for PTSD during his time in service, nor did the applicant endorsed clinically significant indicators or PTSD during his time in service.*

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 an Under Other Than Honorable Conditions character of service due to misconduct (drug abuse) with two years, seven months, twenty-nine days' time in service.*

*The applicant's records revealed the applicant self-reported his THC use to his leadership and made it known that he was using THC as a means to obtain discharge from the Air Force. The applicant's records also revealed the applicant had a pre-service history of marijuana use. The applicant's choice to use marijuana to obtain discharge may explain the applicant's drug use, but it does not mitigate the applicant's misconduct. Based on review of the available records the applicant indicated to his medical and mental health providers that wanted out of the Air Force and knew that drug use would result in discharge.*

4. Does that condition or experience outweigh the discharge?

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

j. Similarly situated Service members sometimes receive disparate punishments. A Service member in one location could face court-martial for an offense that routinely is handled administratively across the Service. While a court-martial or a command would be within its authority to choose a specific disposition forum or issue a certain punishment, DRBs should nevertheless consider uniformity and unfair disparities in punishments as a basis for relief.

*Similarly situated service members would typically receive a General Discharge for the misconduct that resulted in the applicant’s separation.*

**FINDING:** The DRB voted unanimously to **approve** the applicant’s request to upgrade his discharge characterization. However, it voted unanimously to **deny** any change the discharge narrative reason or 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.

The Board determined that the applicant’s service was honest and faithful, but that significant aspects of the member’s conduct outweighed positive aspects of the member’s military record, thus a General (Under Honorable Conditions) characterization, rather than an Honorable characterization, was appropriate.

**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 inequitable]. Therefore, the awarded characterization of service shall change “General,” the narrative reason for separation shall remain “Misconduct (Drug Abuse),” and the reentry code shall remain “4H.” The Air Force DRB (AFDRB) results were approved by the presiding officer on 3 January 2024. 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)

