

SUMMARY:

The applicant was discharged on 16 December 2022 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with an Under Honorable Conditions (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 not represented by counsel.

The applicant requested the Board be completed based on a records only review. The Board was conducted on 30 November 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 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 stressors he experienced throughout his time in service, including funeral details while in the Base Honor Guard and his deployment where he was subjected to mortar attacks. He indicated bereavement, finding out he didn't make promotion, amongst many other things that made him feel like he wasn't measuring up. He explained that these stressors built up until he couldn't take it anymore, so he attempted to self-medicate with CBD and marijuana. The applicant concluded that he can't use the GI Bill, and cannot reenlist with the current discharge, and his discharge is for a single offense after over 5 years of service.

The DRB reviewed the applicant's entire service record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge. The applicant was fully aware of the Air Force's zero tolerance policy for illegal drug use but chose to violate that policy by using CBD and marijuana. Even after a positive urinalysis, the applicant continued to use illegal drugs because he stated he wanted to get his money's worth. This shows the applicant's complete disregard for rules and regulations and reinforces his incompatibility for service. 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 boxes for "PTSD" and "other mental health" on the application.

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

There is no evidence the applicant received a diagnosis of PTSD during his time in service; there is no evidence the applicant exhibited or endorsed any clinically significant features of PTSD during his time in service. The applicant's in-service records reveal he sought mental health services at the recommendation of his first sergeant during his time in service for stress related to financial problems and pornography addiction. The applicant records revealed that applicant denied any mental health concerns and declined all related referrals on his post deployment assessments. There is evidence the applicant was command referred to ADAPT after testing positive for marijuana and agreed to participate in substance misuse treatment services.

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 service characterization due to misconduct (drug abuse) with five years, ten months, and ten days' time in service. The applicant's records indicated he tested positive for marijuana on multiple urinalysis tests and the applicant reported to providers he continued to smoke after his positive urinalysis because he paid for the marijuana vape pen and wanted to get his money's worth. Based on review the applicant's medical records, the applicant reported to substance abuse treatment providers that he continued to use alcohol in social situations while enrolled in treatment, reporting his use of alcohol and marijuana was related to a desire to socialize with peers who also used alcohol to relieve stress. The records reveal the applicant's mood symptoms were likely onset by his heavy and maladaptive patterns of substance use. The applicant was discharged due to drug use (marijuana). The applicant reported to his in-service providers he chose to use alcohol and 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.

4. Does that condition or experience outweigh the discharge?

Because the applicant's discharge is not mitigated, 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 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 13 December 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)