

SUMMARY:

The applicant was discharged on 08 March 2022 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 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 applicant's record of service included an Article 15 and a Letter of Reprimand. His misconduct included: Wrongful possession and use of marijuana; Obstructing justice; Allowed a fellow Airmen to drive one's own vehicle while intoxicated and disobeying a direct order on multiple occasions.

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 has expressed a desire for an upgraded characterization to make use of his VA education benefits and attain an acceptable reenlistment code for potential reenlistment. During his tenure in the Air Force, the applicant highlighted his additional responsibilities as Dorm Chief at Basic Military Training, 72d Medical Group Airman Committed to Excellence President, and his recognition as an Honor Guardsman of the Month during his 6-month tenure with the Base Honor Guard. Seeking to upgrade his characterization to "Honorable", the applicant aims to pursue a degree in Psychology to impact others meaningfully and positively. The applicant acknowledges and apologizes for past mistakes, assuring that such errors will not be repeated if granted the privilege of wearing the uniform once again.

The DRB determined that there was no impropriety or inequity in the record that would warrant an upgrade to the discharge. 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. Additionally, in regard to the reentry code request, the applicant's decision to engage in drug abuse does not align with the values and standards of the Air Force,

therefore reentry into the military could not be supported.

LIBERAL CONSIDERATION:

Due to the applicant's contention of a mental health condition or experience found in their 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 contended "I am requesting a discharge upgrade because I was and still am dealing with mental health problems at the time of my mistake. I even won a VA claim for adjustment disorder. I am getting treatment at the OKCVAMC. I am seeking the discharge upgrade in order to use my GI Bill to learn more about my skill set I got from the Air Force."

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

A review of the applicant's medical and mental health records revealed the applicant was command referred to ADAPT subsequent to an alcohol related incident off base. The applicant's records revealed the applicant completed the alcohol education classes and denied any mental health symptoms. The applicant was command referred to ADAPT a second time less than a year later due to a positive drug test. The records revealed the applicant denied any mental health symptoms and reported he smoked marijuana to socialize. There is no evidence the applicant sought or received any mental health treatment during his time in service. There is no evidence the applicant exhibited any clinically significant features of a mental health condition 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 a general service characterization due to misconduct (drug abuse) with three years, eleven months, twenty-six days' time in service. The applicant acknowledged in his statement to investigators that he smoked marijuana prior to service and used marijuana during his time in service to "feel chill". The applicant's records revealed the applicant's repeated substance use was premeditated and occurred in a social context with peers who were also using marijuana.

There is no evidence a mental health condition caused the misconduct that led to the applicant's discharge.

The applicant's service records reveal a history of pre-service alcohol and marijuana use. Further, the applicant reported he chose to use alcohol and drugs in a way that was incompatible with military service. While this explains the applicant's drug use, it does not mitigate the applicant's misconduct.

Regarding the applicant's concurrence with his VA rating, the VA, operating under a different set of laws than the military, is empowered to offer compensation for any medical or mental health condition with an established nexus to military service, without regard to its impact on a member's fitness to serve, the narrative reason for release from service, or the length of time that has transpired since the date of

discharge. The VA may also conduct periodic reevaluations for the purpose of adjusting the disability rating as the level of impairment from a given condition may improve or worsen over the life of the veteran. At the “snapshot in time” of the applicant’s service, there is no evidence a mental health condition caused or mitigated the misconduct that led to the applicant’s discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicant’s discharge is not mitigated, the 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 8 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)