

SUMMARY:

The applicant was discharged on 24 January 2023 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with a General Discharge for Misconduct (Drug Abuse). The applicant appealed for an upgrade of her 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 initially chose to have a personal appearance before the Discharge Review Board (DRB), however, the applicant did not appear at the time required. The President of the AFDRB authorized the Board to complete its review of the discharge, per DOD 1332.28, E3.2.6.2. The applicant did not have a prior record only review, therefore, the board deemed her eligible for one.

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 multiple Article 15s. Her misconduct included: Without authority, go from place of duty after having reported, to wit, the Drug Demand Reduction Program (DDRP) facility; wrongfully used Delta Tetrahydrocannabinol (THC-8).

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 is asking for a second chance. She asked to be able to reenter or at the very least, have an honorable discharge so that she may use the GI Bill. She indicated that she was discharged for drug abuse, and the substance she used was legal for civilians but illegal for the military.

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 policy of zero tolerance for illegal drug use, whether it was legalized in the civilian sector or not. The Board found the negative aspects of the applicant's willful misconduct outweighed the positive aspects of her military service. Furthermore, her decision to engage in in this type of misconduct does not align with the values and standards expected in the United States Air Force. Therefore, an upgrade to the reentry code could not be supported.

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 made no other mental health contentions and requested her characterization be upgraded to honorable so she can go back to school. The applicant also stated "As for the reason I was discharge for misconduct (drug abuse). I ingested delta 8. A substance that is legal for civilians but illegal for military."

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

A review of the available records revealed the applicant walked-in to the mental health clinic after leaving her mandated drug test without completing the drug test. The applicant's records revealed the applicant left the appointment and went to mental health because she knew she would fail the drug test and was feeling suicidal. The applicant's records also revealed she self-admitted to inpatient mental health services for a day and reported upon discharge that her symptoms were resolved. The applicant was referred to ADAPT and completed education classes. The applicant's records revealed the applicant requested mental health services again approximately 18 months later, although reported information and symptoms that were contradictory to the applicant's initial presentation to mental health. There is no evidence the applicant received the diagnosis of PTSD during her time in service; there is no evidence or records the applicant endorsed or exhibited any clinically significant indicators of PTSD during her 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 character of service due to misconduct (drug abuse) with five years, two months, twenty four days' time in service. A review of the applicant's available records revealed the applicant admitted to smoking marijuana and maladaptive alcohol use in 2019 to cope with a difficult breakup. The applicant's records also revealed the applicant reported to ADAPT providers that she was having regrets about joining the military and difficulty adjusting to the military culture and lifestyle. The applicant's records revealed the applicant tested positive for THC-8 and THC-9 in 2022. The applicant provided no evidence or records to substantiate why she checked the boxes for "PTSD" or "other mental health" on the application" and explained her misconduct (drug abuse) as using a substance that was legal for civilians but illegal for military members. There is evidence the applicant received mental health services during her time in service but there is no evidence of a nexus between the applicant's in-service mental health symptoms and the misconduct(s) for which she was discharged. The applicant was discharged due to drug use (marijuana). Based on the available evidence in the applicant's records along with the applicant's testimony in her application, there is evidence the applicant was having difficulty adjusting to military life. The applicant reported she 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 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 Presiding Officer on 17 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://afrbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

