

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT

SUMMARY:

The applicant was discharged on 12 April 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 and a change to the discharge narrative reason.

The applicant requested the board be completed based on a records only review. The Board was conducted on 7 March 2024. The applicant was not represented by counsel.

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 reenry 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, multiple Letters of Reprimand, and multiple Letters of Counseling. His misconduct included: Between on or about 18 Oct 2021 and on or about 09 Dec 2021, wrongfully use marijuana, a Scheduled I controlled substance; Derelict in duties; did not report missing tool or conduct proper protocol; Reported to work 90 mins late; between on or about 10 Feb 2021 and on or about 12 Feb 2021, received multiple write ups for a program that had repeated discrepancies; failed to attend mandatory training; on 12 Feb 2021's spot check uncovered additional discrepancies, indicating a further degradation of program; Derelict in performance of duties, failed to properly re-certify an Airman in D-1 chem bag inspection; Late on four occasions between on or about 22 Jun 2021 and on or about 25 Aug 2021; Arrived 20 mins late to scheduled Flight PT.

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 requesting for their characterization, separation code, and narrative reason be changed. He attached a letter from the Department of Veterans Affairs (DVA) stating that his first enlistment should be "Honorable" and that his DD 214 should be properly reflected. His attached (DVA) letters shows that his military period from 11 Dec 2012 to 10 Dec 2019 is Honorable, for (DVA) purposes.

As the letter from Department of Veteran Affairs (DVA) indicated, the period of service, presumably the applicant's first enlistment, was deemed Honorable for their purposes. This does not mean that the applicant's totality of service was "Honorable." Furthermore, the statement indicates "for VA purposes." The DVA determined that the applicant had met their criteria for VA benefits. The DVA is a separate government department. Their decision is not binding on the Department of Defense and does not indicate in

any way that the discharge received was or should have been characterized as “Honorable” by the military department.

However, after thorough consideration of the totality of the circumstances, as well as a review of 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 DRB determined that the Characterization received was too harsh.

As specified in factor 6j of this memorandum, 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.

The applicant was discharged for use of marijuana, receiving an “Under Other Than Honorable Conditions discharge.” Similarly situated service members would receive a “General” discharge characterization for this type of misconduct. Therefore, the applicant’s discharge was determined to be inequitable.

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

The Board determined that the applicant’s service was honest and faithful, but their use of illegal drugs outweighed the positive aspects of his military record. A General (Under Honorable Conditions) characterization was deemed appropriate. The applicant was not absolved of the misconduct committed, but rather, was given relief in order to ensure equity of discharges amongst service members. Therefore, an Honorable characterization would not be 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 to “General,” the narrative reason for separation shall remain “Misconduct (Drug Abuse),” and the reentry code shall remain “4D.” The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 11 March 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)