

SUMMARY:

The applicant was discharged on 06 November 2020 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General Discharge for description of misconduct taken from DD 214. The applicant appealed for an upgrade of their 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 18 January 2024.

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. Their misconduct included: Wrongful use of Marijuana.

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 requested an upgrade in all aspects of their discharge. The applicant stated they struggled with post-traumatic stress disorder (PTSD) and an alcohol disorder. They attest that they used marijuana temporarily as a coping mechanism during this low period in their life. They acknowledge that using marijuana was a lapse in judgment but contest that this one-time drug use should not characterize the rest of their military records, for they had honorable service.

The DRB determined no evidence of impropriety or inequity that would warrant an upgrade to the discharge. The applicant did not produce any documentation regarding their claims of inequity or impropriety. Since the board relies on the presumption of regularity. The applicant was fully aware of the Air Force's zero tolerance for drug use, and the severity of their drug use alone justifies discharge. The board concluded the discharge received by the applicant was appropriate is equitable to similarly situated airmen.

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 traumatic brain injury (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 "I was undiagnosed with PTSD with alcohol use disorder. I was not in a good mental state and that caused me to make stupid decisions in my personal life." The applicant also contended "The drug abuse referred in my DD214 is due to me personally using marijuana. I was at a low point within myself at the time and I know now why. Prior to my UA infraction I had no record of bad behavior or misconduct."

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

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 or endorsed any clinically significant features of PTSD, or any other mental health condition, during his time in service. A review of the applicant's in service records revealed the applicant denied all mental health symptoms during his annual screeners and on his pre and post deployment assessments.

3. Does that condition or experience actually excuse or mitigate the discharge?

Based on a review of the applicant's DD214, the applicant was discharged with a general character of service due to misconduct (drug abuse) with four years, eleven months, six days' time in service. 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 or endorsed any clinically significant features of PTSD, or any other mental health condition, during his time in service. There is no evidence or records to substantiate the applicant's contention that he developed PTSD during his time in service or that a mental health condition caused or mitigated the applicant's decision to use marijuana during his time in service, resulting in his discharge.

Regarding the applicant's concurrence with his Veteran's Affairs (VA) rating, the Department of Veteran's Affairs, 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. During the applicant's time in service there is no evidence the applicant had a mental health condition that caused or mitigated the misconduct(s) which led to the applicant's discharge.

4. Does that condition or experience outweigh the discharge?

Because the applicants 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.

FINDING: The DRB voted unanimously to *deny* the applicant's request to upgrade their 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 to "4H." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 24 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)