

SUMMARY:

The applicant was discharged on 14 February 2014 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 their discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

The applicant requested the Board be completed based on a records only review. The Board was conducted on 28 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 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. His misconduct included wrongful possession and use of a synthetic cannabinoid.

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 due to his corrective actions after separation to become a better citizen, including an intensive outpatient therapy for rehabilitation, a work study program, and earning an associate's and bachelor's degree. He desired to redeem his family name. The applicant provided evidence of the rehabilitation and degrees.

The applicant did not allege or present evidence that his discharge was improper. The DRB therefore considered his application under standards of equity.

The DRB determined to deny the applicant's request because the positive aspects of his in- and post-service accomplishments did not outweigh his misconduct.

A General (Under Honorable Conditions) characterization is appropriate when "when the positive aspects of the enlisted Service member's conduct or performance of duty outweigh negative aspects of the enlisted Service member's conduct or performance of duty as documented in their service record." DoDI 1332.14 at page 30 (paragraph 3(b)(2)(b)). In contrast, an Honorable characterization is appropriate "when the quality of the enlisted Service member's service generally has met the standards of acceptable conduct and

performance of duty for military personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.” Id.

The DRB carefully reviewed the applicant’s service records. Although the applicant received positive performance evaluations, the DRB determined that the positive aspects of the Applicant’s service were not “so meritorious that any other characterization would be clearly inappropriate” in light of the drug abuse. Additionally, the discharge received was consistent with standards of discipline in the Air Force.

LIBERAL CONSIDERATION:

Due to a claim of mental health conditions, 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 post-traumatic stress disorder (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 box for “other mental health” on the application. The applicant made no mental health contentions and requested an upgrade to his discharge “due to my corrective actions after my separation to become a better citizen.” The applicant also requested an upgrade “to redeem my family name in the service.”

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

There is no evidence or records 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 mental health condition, during his time in service. There is evidence the applicant was command referred to ADAPT after multiple civilian law enforcement encounters in a single day resulting in the applicant’s involuntary transfer to detox for spice use. The applicant’s records also revealed the applicant endorsed long-term spice use during his time in service. The applicant was command directed to Level II substance use treatment during which the applicant continued to test positive for prohibited substances, resulting in his ADAPT treatment failure, documented misconducts, and discharge.

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 four years, six months, twenty-four days time in service. Although the applicant checked the box for “other mental health” on the application, there is no evidence the applicant exhibited or endorsed any clinically significant features of a mental health condition, during his time in service. The applicant’s records revealed the applicant denied mental health symptoms during his time in service and was minimally engaged in substance abuse treatment. No testimony or records were provided by the applicant to substantiate his claim that a mental health condition caused or substantially contributed to the misconduct(s) that led to the applicant’s discharge. Based on the records available for review, there is no evidence to substantiate the applicant’s contention that he had a mental health condition in service and there is no evidence or records a mental health condition caused or mitigated the misconduct(s) 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 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 Presiding Officer on 2 April 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)