

SUMMARY:

The applicant was discharged on 09 Feb 2022 in accordance with Air Force Instruction 36-3208, Administrative Separation of Airmen, with a General Discharge for Misconduct (Drug Abuse) 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 appeared and testified before the Discharge Review Board (DRB), without counsel, via video teleconference using Zoom on 26 March 2024. No witnesses were present to testify on the applicant's behalf.

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, and multiple Letters of Reprimand. His misconduct included two incidents of wrongful use of marijuana, failure to complete mandatory tool kit inventory, failure to wear personal protective equipment during aircraft maintenance duties, and failure to comply with COVID mitigation measures.

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 upgrade to an Honorable discharge characterization so he can utilize GI Bill benefits. The applicant asserted that his marijuana use was due to the stress of COVID-19 and relationship problems with his girlfriend. The applicant included character statements from an Air Force supervisor and a civilian mentor attesting to positive character traits.

During the hearing, the applicant again asserted that his wrongful marijuana use was due to stress of COVID-19 and relationship issues, including missing his family. He added that he now recognizes the use as a stupid mistake. The applicant stated that he did not attend Alcohol and Drug Abuse Prevention and Treatment (ADAPT) because he did not consider himself to have an addiction. In his unsworn statement, the applicant added that he has only used illegal drugs on the two occasions on which he was caught via Air Force urinalysis. He explained that he is currently employed and has had no criminal activity. The applicant offered no explanation for his other documented performance failures.

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, *Enlisted Administrative Separations*, 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 had two positive character references, his record includes a single Enlisted Performance Report (EPR) rating his performance as meeting expectations. The Board determined that the minor 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 and other performance failures which endangered himself and other airmen. Additionally, the discharge received was consistent with standards of discipline in the Air Force.

Additionally, the applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. To be eligible for these benefits, former airmen must receive an Honorable discharge. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Further, due to the applicant's assertion of a mental health condition, 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 a box on his DRB application for "other mental health." The applicant contended that he was experiencing relational problems and was stressed by the COVID-19 pandemic at the time of his drug use.

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 any clinically significant features of a mental health condition, during his time in service. There is evidence the applicant was command referred to ADAPT after testing positive for tetrahydrocannabinol (THC) during a random urinalysis and completed the education classes. A review of the available records revealed the applicant reported his substance use was recreational and denied all mental health symptoms and declined mental health referrals during his substance abuse education classes.

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

A review of the applicant's discharge package reveals the applicant was discharged with a general character of service due to misconduct (drug abuse). The applicant acknowledged in his statement to the board and to providers during his time in service that he recreationally used marijuana in social settings. There is no evidence the applicant was self-medicating an underlying mental health condition. There is no evidence the applicant exhibited any clinically significant features of a mental health condition, during his time in service. The applicant reported he chose to use 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 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 seek relief before the Air Force Board for Correction of Military Records (AFBCMR) in accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*.

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 22 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)