

SUMMARY:

The applicant was discharged on 02 May 2023 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 his 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 18 April 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 for using a cannabinol substance.

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 argued that he had an undiagnosed mental health condition while in service which led to other issues. He has since been diagnosed with major depressive disorder, and attached records of this diagnosis. He would like to be able to use his GI bill to further his education and improve himself.

The Board determined to deny the applicant's requests because he failed to present substantial credible evidence that his discharge was inequitable. DODI 1332.28, *Discharge Review Board (DRB) Procedures and Standards*, E3.2.12.6.

LIBERAL CONSIDERATION:

Due to evidence of a mental health diagnosis and/or records documenting that one or more symptoms of mental health conditions 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 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?

While the applicant contended that he had an undiagnosed mental health condition that led to other issues, the applicant did not explain what his mental health issues were or what symptoms lead him to believe he had an undiagnosed mental health condition during service. There were no evidence of a mood or anxiety disorder documented during military service. While it is possible the applicant may have used drugs/alcohol to cope with mental health symptoms as co-occurring conditions are not uncommon, however, there were no undiagnosed mental health issues documented at the time of his marijuana or alcohol usage. Furthermore, the applicant made no mention of any mental health symptoms such as depressed mood, anxiety, sleep issues, etc., and none were documented during service. Additionally, there was no argument of using drug or alcohol to manage symptoms of mental health issues. Therefore, there was no evidence of any undiagnosed mental health condition that excused or mitigated his discharge.

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

The applicant's diagnoses of major depressive disorder and generalized anxiety disorder and cannabis use disorder did not exist or occur during military service according to his service treatment records. There is evidence that the applicant sought psychological evaluation one month after separation that diagnosed these conditions. There were five missing pages to the evaluation. Within the evaluation, there was no documentation of symptom onset, description of symptoms, any precipitating events, coping mechanisms to manage symptoms, or functional impairment due to the conditions. Additionally, given the diagnoses of alcohol and cannabis use disorder, which suggests frequent pattern use, these substances were not implicated as attempt at self-medicating. There were no other mental health issues documented at the time of his marijuana or alcohol usage. There is no evidence that an undiagnosed mental health condition existed or was experienced during military service.

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

There is no evidence the applicant had an undiagnosed mental health condition at the time of the misconduct leading to his discharge. Therefore, there was no undiagnosed mental health condition to excuse or mitigate the discharge.

4. Does that condition or experience outweigh the discharge?

The applicant had no undiagnosed mental health condition to excuse or mitigate his discharge, therefore, there is no mental health condition or experience to outweigh the discharge.

EQUITY ANALYSIS:

The applicant did not submit an issue of propriety, and the Board did not rely upon any such issue in its decision. DODI 1332.28 E3.5.4.

The Board examined the applicant's arguments and claims under the equity factors found in DODI 1332.28, E4.3. Based on these factors, the Board rejected the applicant's positions on issues of equity. DODI 1332.28 E3.5.6.1.

DODI 1332.28 states that the discharge is presumed equitable. E4.3. The Board must deem a discharge inequitable if there are new policies applicable granting further benefits (E4.3.1), the discharge was

inconsistent with standards of discipline (E4.3.2.), or the discharge can now be seen as inequitable even though it was equitable at issuance based on specified factors (E4.3.3).

After reviewing the applicant's records and contentions, the Board determined that the equitable factors in DODI 1332.28 did not favor relief. The applicant's discharge following drug use was consistent with Air Force standards of discipline. The applicant had no quality of service factors under E4.3.3.1. due to his short service.

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 and found no evidence of inequity or impropriety.

In conclusion, the Board considered that 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 Board concluded that the applicant did not generally meet the standards of acceptable conduct by his drug use. To be eligible for an Honorable characterization, the service must be so meritorious that a "General" characterization would be clearly inappropriate, and the applicant failed to present "substantial credible evidence" to the contrary. DODI 1332.28 E3.2.12.6.

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 14 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://afbaportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)