

SUMMARY: The Applicant was discharged on 26 January 2022 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.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 06 June 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 multiple Letters of Reprimand, multiple Letters of Counseling, and a Verbal Counseling. His misconduct included:

Verbal Counseling. On 20 October 2020, missed his appointment at the Airman's Center.

Letter of Counseling. On or about 29 March 2021 and on or about 7 April 2021, failed to go at the time prescribed to his appointed place of duty. Repeatedly missed scheduled appointments and were not at mandated places of duty.

Letter of Counseling. Unsatisfactory rating during his PT assessment on 23 July 2021, overall score was 61.

Letter of Reprimand. Between on or about 2021 and on or about February 2022, were derelict in the performance of those duties in that he failed to meet specific instructions given to him by his supervisor, squadron leadership and Air Force Personnel Center regarding deadlines and tasks to complete for his retraining application.

Letter of Reprimand. On or about 19 August 2022, during an inspection of his dorm room, prohibited substances were found. Specifically, his dorm room contained two vials of CBD oil, one bag of CBD dog treats, and a bag of Kratom.

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 to his Character of Service. The Applicant stated in 2022 he began to experience migraine headaches, which caused him to develop anxiety. The Applicant contended the migraines and anxiety were debilitating and affected his ability to perform activities of daily living and perform military job duties.

The DRB determined the discharge was proper and equitable. The Board found that the Applicant underwent psychological testing on two separate occasions during his time in service and there were no conditions found to preclude the Applicant from appropriately performing his duties. Additionally, the Board

determined the Applicant's misconduct began prior to the Applicant's contended or documented onset of headaches and there is no evidence of a nexus between the Applicant's contended condition of anxiety due to migraines and the substance use that led to his discharge.

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 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 contended "in January 2022 I began to experience migraine headaches. The headaches were debilitating and affected all aspects of my life. Due to the frequent unpredictable migraines, I developed anxiety. The migraines and anxiety were debilitating and affected my ability to perform activities of daily living. They also affected my ability to perform job duties and fulfill my military contract."

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

A review of the Applicant's in service records revealed the Applicant endorsed non-specific symptoms of anxiety during his time in service but declined mental health services. The Applicant's records revealed the Applicant was encouraged to seek mental health services by multiple commands both in tech school and specialty training on numerous occasions due to bizarre behaviors and inappropriate responses. The Applicant underwent psychological testing on two separate occasions during his time in service, once by order of command directed evaluation and once voluntarily, both occurrences returned scores within normal limits and no conditions that would preclude the Applicant from appropriately performing his duties. The Applicant's records revealed to psychological evaluators that he used kratom and CBD products during his time in service and was medically referred to ADAPT during his time in service.

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 two years, eight months, thirteen days time in service. The evidence submitted by the Applicant is contradictory. The Applicant contended "in January 2022 I began to experience migraine headaches." The documentation submitted by the Applicant was for "new onset headache" and the evaluation was dated 21 November 2022, nearly a year later. Further, a review of the Applicant's in-service records revealed the Applicant's documented misconduct began prior to the Applicant's contended or documented onset of headaches and there is no evidence of a nexus between the Applicant's contended condition of anxiety due to migraines and the substance use that led to his discharge. The Applicant's records reviewed the Applicant exhibited bizarre and inappropriate behavior and responses during his time in technical training resulting in the Applicant participating in psychological testing and assessment multiple times during his brief time in service as well as being offered behavioral health services on multiple occasions, which the Applicant declined. A review of the Applicant's psychological testing revealed the Applicant's scores to be generally within normal limits and not disqualifying for military service. The Applicant's records revealed the Applicant reported to the psychological evaluator during his second psychological evaluation, a command directed evaluation, that he was using kratom and CBD for symptoms of anxiety and although he was aware of mental health services chose to use drugs to self-

medicate instead and was not interested in mental health services. It is as likely as not the Applicant's bizarre behavior and associated mental health symptoms were caused by the Applicant's choice to use the prohibited and unregulated substances kratom and CBD during his time in service, which began before the Applicant's contended medical condition of migraines based on the available records. The Applicant's drug use may explain the Applicant's misconduct but does not mitigate nor excuse the Applicant's discharge.

4. Does that condition or experience outweigh the discharge?

Because the Applicant's discharge is not mitigated nor excused by a mental health condition, 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 DRB results were approved by the Presiding Officer on 1 July 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://afrbaportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)