

SUMMARY:

The applicant was discharged on 12 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, 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 23 April 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 an Article 15 and a Letter of Reprimand. Their misconduct included: Wrongful use of Marijuana (2 times) and Verbal Threat of Violence.

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 the opportunity to rectify their past mistakes by upgrading their discharge status to honorable. The applicants stated that they took full responsibility for their behavior and acknowledged that they had fallen short of the high standards of conduct for the Air Force. They would like their remorse and conduct before the incident to be considered for their upgrade request.

The DRB acknowledged that the applicant did not contest the equity or propriety of their discharge, but rather is seeking grace. Upon reviewing the service record the Board found no evidence indicating that the applicant was unaware of the Air Force's policy of zero tolerance for illegal drug use. The applicant signed an AF Form 2030, *USAF Drug and Alcohol Certificate*, acknowledging an understanding that drug abuse is incompatible with military life and does not meet military standards. Moreover, the illegal or improper use of drugs and alcohol is not condoned and typically renders an applicant ineligible for accession. The applicant also failed to provide evidence demonstrating a direct link between their claimed mental health conditions and how it would mitigate their misconduct. The DRB determined that the severity of the applicant's deliberate misconduct outweighed any positive contributions from their service.

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 made no other mental health contentions on the application and contended "I am deeply aware of the gravity of my actions during my service and express sincere remorse for my misconduct and choices I made that led to my current discharge status. I acknowledge that I feel short of the high standards of conduct of the United States Air Force and take full responsibility for my behavior and regret the choices I made."

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

A review of the applicant's records revealed the applicant received mental health service intermittently during his time in service. The applicant's records revealed he reported a pre-service dispute with his girlfriend that result in a later investigation that occurred during his time in service that caused symptoms of distress. The applicant's records also revealed difficulty managing his anger but did not return for services. The applicant's records also revealed the applicant reported symptoms of distress and maladaptive alcohol use related to the sudden death of a hometown friend. The applicant's records revealed the applicant acknowledged his alcohol use but denied problematic use and declined services although self-referred and was command referred to Alcohol and Drug Abuse Prevention Training (ADAPT) on multiple occasion for both alcohol and marijuana use. The applicant's records revealed the applicant was offered inpatient and outpatient mental health services during his time in service but declined and preferred to use mental health services on an "as needed" basis or by walk-in.

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

A review of the applicant's DD214, Certificate of Release or Discharge from Active Duty, revealed the applicant was discharged with a general character of service due to misconduct (drug abuse) A review of the applicant's discharge package and the applicant's response to his Article 15 revealed the applicant denied knowingly using marijuana and denied being the owner of the marijuana or paraphernalia of which he was in possession. The applicant attributed the substance use that led to his discharge to have been caused by his own choice and made no contentions that a mental health condition or mental health symptoms caused or substantially contributed to the misconduct that led to applicant's discharge. There is evidence the applicant reported to providers that his alcohol use was related to distress from the sudden death of a childhood friend and choosing to use alcohol instead of seek bereavement counseling. However, a review of the available records revealed no nexus between the applicant's marijuana use or possession and his mental health symptoms. Further, the applicant denied using marijuana during his time in service and reported to investigators that the paraphernalia was not his, thus there is no evidence a mental health condition would mitigate misconduct the applicant does not acknowledge.

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 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 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 13 May 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)

