

SUMMARY: The Applicant was discharged on 11 September 2023 in accordance with Department of the Air Force Instruction 36-3211, Military Separations, with a General discharge for Misconduct (Drug Abuse). The Applicant appealed for an upgrade of their discharge characterization and a change to the discharge narrative reason.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 22 October 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 DRB provided a notice to inform the service member of resources available to help answer their questions about the application process and/or to help them supplement their application, to include information on the types of evidence that can be submitted to support a claim; information regarding potential eligibility for mental health treatment and evaluation services offered by the Department of Veterans' Affairs (VA); general information regarding Veterans Service Organizations that may assist with DRB applications, and their right to retain counsel; a link to a database of legal services organizations that serve members of the military, veterans, and their families; the weblink to the VA's Directory of Veteran's Service Organizations; and information regarding reasonable accommodation requests from the DRB in the application and adjudication process.

The Applicant's record of service included the following documented misconduct leading up to their discharge: Article 15 for the wrongful use of marijuana.

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 stated that they believed the Board should grant their request to upgrade their discharge because their health conditions were initially ignored when they reached out for help.

The DRB determined that the Applicant was discharged for wrongful use of marijuana, a violation of military standards. While the Applicant mentioned mental health struggles and checked boxes for PTSD and sexual harassment/assault on their application, they did not provide sufficient evidence to show these issues contributed to the misconduct. The Board also noted that the Applicant failed to self-report the drug use after learning the vape contained THC, despite having multiple opportunities to do so. The explanation was considered unconvincing. Although the Applicant submitted character statements and demonstrated personal growth, these efforts were insufficient to outweigh the seriousness of the misconduct. ultimately, the DRB

found no evidence that the discharge was improper or inequitable.

LIBERAL CONSIDERATION: Due to the Applicant's contentions or 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 boxes for "PTSD," "Other mental health" and "sexual assault/harassment" on the application. The Applicant submitted her response to her Article 15 as her testimony statement that stated "while on leave celebrating the holiday weekend with my family I went to a bar with my cousin and his friends. After having some drinks, I took a hit off of my cousin's friend's vape, which I honestly thought was a nicotine vape. At no point prior to taking the vape hit did I think I was taking anything but a nicotine vape as I would not knowingly hit a THC pen." The Applicant provided no other information, evidence, documents or testimony regarding why she checked the boxes for "PTSD" or "Sexual assault/harassment" on the application.

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

A review of the Applicant's in-service records revealed the Applicant received inpatient, intensive outpatient, and outpatient mental health services during her time in service. The Applicant's records revealed the Applicant received the diagnosis of borderline personality disorder during her time in service and was recommended by her treating mental health provider for administrative separation due to her unsuiting mental health condition and its impact on the Applicant's ability to function in the military environment. However, the Applicant was discharged due to drug use; there is no evidence that the Applicant's unsuiting condition of personality disorder was the basis for her discharge. There is no evidence the Applicant received the diagnosis of PTSD during her 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 discharge with a general character of service due to misconduct (drug abuse) with three years, three months, four days' time in service. There is no evidence of a nexus between the Applicant's in service mental health conditions and the misconduct for which the Applicant was discharge. The Applicant stated in her response article 15 memorandum "I will fully admit that PCSing to Eglin was the start of rough journey for me, I had to take a knee in December and focus on my mental health. I did this so I could better myself as a person and as an asset for the career I love. I had been through difference types of Intensive Outpatient Care, and a one month long Intensive Inpatient. I was at the lower point of my life in December. Since then, I have been on a path to recover, I have put in the work to get back to the exceeding expectation Airman I know I am. I would not have intentionally to cause my personally and professionally stress that would set back all the progress I made over the past couple of month. I was and am so proud of how far I have come. I wouldn't give that all up by intentionally consuming THC Delta-9." The Applicant contended throughout her discharge process that she made a regrettable, unintentional mistake of unknowingly using a THC vape while under the influence of alcohol at a bar. The Applicant does not contend, nor is there evidence that a mental health condition caused or contributed to the misconduct that led to the Applicant's discharge.

4. Does that condition, or experience outweigh the discharge?

There is no evidence of a nexus between the Applicant's in service mental health condition and the misconduct that led to the Applicant's discharge. Because the Applicant's discharge is not mitigated or 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 their discharge characterization and to change the discharge narrative reason.

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 "Under Honorable Conditions - (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 30 October 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, MD 20762

Instructions on how to appeal an AFDRB decision can be found at
<https://afrbaportal.azurewebsites.us>

Attachment:
Examiner's Brief (Applicant Only)