

SUMMARY: The Applicant was discharged on 11 January 2016 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 27 August 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 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 their discharge, citing unjust treatment. They admitted fault to the Office Special Investigation (OSI) for distribution of drug but argued that others cited charges were dismissed due to insufficient evidence. Despite this, they were sentenced to seven days in jail, 30 days of hard labor, and a reduction in rank. The applicant stated that their command attempted to discharge them, but higher leadership denied the request, as they had already been punished through a summary court-martial. They further alleged that OSI revisited the dismissed charges and presented them to the commander without sufficient evidence. The applicant also expressed dissatisfaction with the legal counsel they received, claiming it was inadequate. They insisted that the discharge was unwarranted, highlighting their family's long-standing military service and stating that the discharge had caused significant hardship, including being barred from military installations.

The DRB found that the applicant had already been subject to a summary court-martial, where they pled guilty and received the appropriate punishment. The applicant further contended that OSI pursued charges previously dismissed for lack of evidence, raising questions about the fairness of the administrative discharge process, particularly given that the burden of proof in such proceedings is lower than in a court-martial. Considering Department of the Air Force Instruction 51-201, *Administration of Military Justice*, . The maximum penalty that can be adjudged in a summary court martial is confinement for 30 days, forfeiture of two-thirds pay per month for one month, and reduction to the lowest pay grade. the applicant's positive conduct after service and the proportionality of the punishment in relation to the offenses, the board concluded that upgrading the discharge would be more consistent with the applicant's overall service record and future aspirations.

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.

FINDING: The DRB voted 2 to 1 to **approve** 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 improper. Therefore, the awarded characterization of service shall Change to “Honorable,” the narrative reason for separation shall Change to “Secretarial Authority,” and the reentry code shall Change to “2C.” The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 9 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, 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)