

SUMMARY: The Applicant was discharged on 24 January 2024 in accordance with Department of the Air Force Instruction 36-3211, *Military Separations*, with an Under Honorable Conditions (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 Applicant's record of service included the following documented misconduct leading up to their discharge:

- Article 15 for wrongful use of marijuana.
- Letter of Reprimand for testing positive for delta-9-tetrahydrocannabinol, a Schedule I controlled 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 claims their discharge was a result of dealing with over three years of domestic violence, divorce, and a diagnosis of depression and anxiety. They state their behavior was not a reflection of their morals and who they are. In addition, they claim they have since learned healthier coping skills and surrounded themselves with a good support system to prevent that one-time mistake from happening again and for those reasons they are seeking an upgrade to their discharge.

The Discharge Review Board (DRB) concluded that there was no evidence to support the claim of impropriety or inequity in the Applicant's discharge from the Air Force. After reviewing the Applicant's administrative and medical records, the DRB found that the Applicant had sought treatment for anxiety and depression symptoms related to personal and professional stress, including a divorce. However, the records also revealed that the Applicant had denied experiencing domestic abuse during their time in service. Additionally, the Applicant had claimed that their use of marijuana was a one-time mistake, but the records showed that they had actually received four positive urinalysis tests for marijuana. As a result of the repeated use of marijuana, the Applicant did not meet the retention criteria, and their discharge was deemed to be in line with Air Force regulations. The Applicant had been entitled to an administrative discharge board, but they had waived their right to have their case presented before the board and to submit a written statement. Furthermore, the Applicant had claimed to have learned healthier coping skills to prevent their use of marijuana, but they failed to provide any evidence to corroborate this claim. Without any supporting

evidence, the DRB could not verify the Applicant's assertion and therefore, could not find any basis for upgrading or changing the discharge characterization. Based on the evidence, the DRB determined that the Applicant's discharge was proper and equitable, and that there was no basis for further relief.

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?

Yes. The Applicant checked the boxes for "other mental health" and "intimate partner violence/domestic violence" on the application. The Applicant contended "the board should grant the requested changes because my discharge was a result of over 3 years dealing with domestic violence, divorce, and eventually a diagnosis of depression and anxiety. On just one really bad day I made a career ending decision that was not a reflection of my morals and who I am. I have since learned healthier coping skills and surrounded myself with a good support system to prevent that one-time mistake from happening again. As hard as it was dealing with mental turmoil, I always remained an outstanding Airman by being a supportive and hardworking supervisor, teacher, and coworker."

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

A review of the available records revealed the Applicant reported stress related to a divorce and family problems during their time in serve. A review of the available records revealed the Applicant denied experiencing domestic violence to multiple on base and off base medical and mental health providers during their time in service. A review of the Applicant's in service mental health records revealed the Applicant's symptoms to be subclinical and the Applicant's records revealed the Applicant reported to their in-service provider both on base and off base that although they were experiencing symptoms of anxiety and depression, they were not impacting their ability to do their job or their overall functioning. The Applicant's record revealed the Applicant declined substance use services at the conclusion of their legal investigation but agreed to participate in substance use services when offered again for maladaptive alcohol use prior to the Applicant's discharge.

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 six years, eleven months, eighteen days time in service. A review of the available records revealed the Applicant reported stress related to a divorce and family problems during their time in serve. A review of the available records revealed the Applicant denied experiencing domestic violence to multiple on base and off base medical and mental health providers during their time in service. A review of the Applicant's in service mental health records revealed the Applicant's symptoms to be subclinical and the Applicant's records revealed the Applicant reported to their in-service provider both on base and off base that although she was experiencing symptoms of anxiety and depression, they were not impacting their ability to do their job or their overall functioning. Based on the Applicant's subclinical symptoms, it is unlikely the Applicant's in-service mental health symptoms caused or substantially contributed to the Applicant's choice to use marijuana on multiple occasions. The Applicant's

records also revealed a pre-service history of marijuana use which may explain the Applicant's choice to use a prohibited substance but not mitigate or excuse the Applicant's misconduct.

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

Because the Applicant's misconduct 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.

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 25 November 2024. If desired, the Applicant can request a list of the Board members and their votes by writing to:

Air Force Discharge Review Board
3351 Celmers Lane
Joint Base Andrews, MD 20762-6435

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

Attachment:
Examiner's Brief (Applicant Only)