

SUMMARY: The Applicant was discharged on 26 February 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, a change to the discharge narrative reason, and a change to the reentry code.

The Applicant requested the Board be completed based on a records only review. The Board was conducted on 26 November 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 wrongful use of marijuana, a Schedule I controlled substance
- Letter of Counseling (LOC) for failure to report to assigned duty location to conduct a respiratory fit test
- Letter of Reprimand (LOR) for failure to report to assigned duty location to conduct a respiratory fit test

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 respectfully requested reinstatement into the Air Force, stating that their discharge was inevitable as it resulted from a single incident after 38 months of faithful service. They acknowledged poor judgment in one instance of marijuana use but emphasized their consistent excellence in performance, teamwork, and adaptability. They supported their claims by attaching three character statements. The Applicant also stated that they had been selected for base honor guard, where they demonstrated respect for the nation's fallen service members. Following their mistake, the Applicant stated that they voluntarily sought assistance but were unable to get the support they needed as they were rushed through the discharge

process. Accepting accountability, they requested an upgrade to honorable conditions and a changed reentry code to allow them to complete their term in military service.

The DRB determined that the Applicant was discharged for the wrongful use of marijuana, a Schedule I controlled substance, in violation of the Air Force's zero-tolerance policy. By signing Air Force Form 2030, the Applicant had previously acknowledged this policy and later accepted accountability for their actions. Mental health evaluations conducted during service revealed no diagnosable condition or evidence that the Applicant's drug use was linked to emotional distress or a mental health disorder, and thus did not excuse or mitigate their misconduct.

While the board acknowledged the Applicant's positive contributions, including service in the Honor Guard and supporting character statements, these factors did not outweigh the seriousness of the misconduct. The board found no evidence of inequity, impropriety, or mitigating circumstances to justify altering the discharge characterization.

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 marked "OTHER MENTAL HEALTH" on their application to the DRB and contended their discharge was inequitable because it was based on one isolated incident in 38 months of faithful service. They admitted to poor judgment in using marijuana and stated that, outside of this incident, they performed their job above satisfactory levels. They believed their discharge was rushed and was a harsh action. They did not identify their other mental health condition or explain how their mental health condition or experience may excuse or mitigate their misconduct or discharge.

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

The Applicant's service treatment records revealed that they were command-referred to ADAPT after testing positive for THC. They repeatedly deferred their evaluation with ADAPT, and there are no records indicating they ever completed the evaluation. During their first encounter with an ADAPT provider, they reported experiencing mild depression that impacted their sleep, presumably related to occupational problems based on the content of the notes. The cause of their mild depression was not specified. Later, they met with a mental health provider at PCBH through a referral from their PCM and reported that the onset of their stressors occurred a few months prior. They identified the factors correlating with the onset of their stressors as "Testing positive and now facing separation that they do not want; frequent changes of supervisors." The mental health provider formulated a clinical impression, opining that the Applicant's work problems were rooted in their positive THC test.

The Applicant had one additional session with the same mental health provider for brief psychotherapy. This was the last documented instance of them being seen by a mental health provider during their service. They were not given any formal mental disorder diagnosis; instead, a concern of "Worries" was annotated.

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

The Applicant's official discharge paperwork is not available or submitted for review. Their DD Form 214 indicates they were discharged for the reason of Misconduct (Drug Abuse), and their service treatment records report a positive test for THC. There is no evidence that the Applicant's mental health condition had a direct impact on or was a contributing factor to their misconduct involving drug use or their discharge for this reason. Additionally, there is no evidence that they used marijuana to cope with a mental health condition or that they were experiencing emotional distress impairing their judgment at the time of their drug use.

The service treatment records state that the Applicant experienced work stressors, mild depression, and worries or anxiety in response to testing positive for THC and its consequences on their military career. However, there is no evidence of a mental health condition or related problems and symptoms prior to or during their drug use. As a result, their mental health condition does not excuse or mitigate their discharge.

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

Since the Applicant's mental health condition does not excuse or mitigate their discharge, it also does not outweigh their original discharge. There is no inequity or impropriety identified with their discharge from a mental health perspective.

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 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 27 December 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 20762-6435

Instructions on how to appeal an AFDRB decision can be found at

<https://afrbaportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)

