

SUMMARY: The Applicant was discharged on 27 January 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with an Under Honorable Conditions (General) character of service for Misconduct (Drug Abuse). The Applicant appealed for an upgrade of their character of service 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 31 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:

- Letter of Reprimand for a concealed, unregistered, loaded weapon in their vehicle.
- Letter of Counseling for not wearing required uniform item.
- Article 15 for wrongful use of delta-9-tetrahydrocannabinol (THC-9).

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 due to a mental depression disorder. They contend that prior to their discharge for drug use, their life was extremely adverse, and their work and home life were completely unbalanced. They were also being prosecuted for refusal of the vaccine after mandates during the pandemic. The Applicant states that depression and anxiety settled fast, and they began using substances to fill a void. The Applicant stated they recently went 60 days sober, although they did relapse. The Applicant is currently on day 20 of sobriety and has begun pursuing a career in technology, earning Comp TIA certifications in A+ and Sec+. They have also started a business and a ministry to help people facing trials. The Applicant is

requesting consideration of the fact that they were a 'perfect warrior' before this incident and are asking for empathy for the stress, mental depression, and anxiety while making a decision.

The Applicant provided the following documents in support of their claim: VA Rating and Diagnostic; Comp TIA A+; Comp TIA Sec+.

The Applicant was discharged for being found to have wrongfully used delta-9-tetrahydrocannabinol after a positive urinalysis, confirmed after a subsequent Bickel test. The Applicant consulted Counsel and submitted statements to their discharge recommendation taking accountability for their misconduct.

The DRB determined there is sufficient evidence of a mental health condition that excuses or mitigates the misconduct that led to discharge. Additionally, the DRB found no evidence in the Applicant's records relating to their misconduct related to the COVID-19 vaccine as they stated in their application. The Board found that the Applicant's command considered their service record during discharge. The Board acknowledges their post-service accomplishments and determined the Applicants discharge was proper and equitable and is not warranting of an upgrade based on a clemency consideration.

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 box for other mental health and made no specific contention. The Applicant did not provide any information regarding a mental health condition, or clarifying information about how the condition(s) affected or caused their misconduct in service leading to their discharge from service.

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

There is no evidence of any mental health condition or mental health treatment during service. There was no documented mood or anxiety symptoms or any other mental health symptoms in their record.

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

There is no evidence that the Applicant suffered from any mental health condition during service, and the Applicant provided no information regarding a mental health condition. There is no mental health condition that excuses or mitigates the discharge for misconduct of marijuana abuse. It is acknowledged that the Applicant was diagnosed with a mental health condition two years post-separation.

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

There is no mental health condition or experience to excuse or mitigate the discharge, no mental health condition outweighs their discharge. There was no error or injustice identified with their discharge process from the service.

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 character of service or 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 15 November 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://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)