

SUMMARY: The Applicant was discharged on November 5, 2009 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, 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 20 March 2025. The Applicant was 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 spice

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, by way of counsel, contended the conduct that led to their discharge was directly related to and mitigated by their undiagnosed and untreated, Major Depressive Disorder (MDD), which developed while they were in service. The Applicant claims, through counsel, that due to their MDD, they succumbed to peer pressure and tried the drug known as Spice twice, in an attempt to fit in with their fellow Airmen and cure their loneliness and depression. The Applicant, by way of counsel, requested that if the Board was unable to change the character of service to Honorable, that consideration be given to changing the narrative reason "to remove the heavily prejudicial, stigmatizing, and substantively inequitable reference to drug abuse."

The DRB found the discharge to be equitable and proper. A thorough review of the Applicant's records revealed no history of mental health (MH) treatment during their service, and no evidence supporting their claim that untreated depression contributed to their misconduct. The DRB found no evidence that the Applicant was unaware of the Air Force's zero-tolerance drug policy. The Applicant's signed AF Form 2030, USAF Drug and Alcohol Certificate, confirms their understanding that drug abuse is incompatible with military service. The DRB concluded that the Applicant's use of mind-altering drugs outweighed any mitigating factors supporting an honorable discharge.

The DRB also recognized the command's failure to adhere to AFI 44-121, by not referring the Applicant to the Alcohol and Drug Abuse Prevention and Treatment (ADAPT) program, despite the Applicant stating depression was a major factor in their misconduct and the misconduct itself being drug related. Additionally, the DRB acknowledged that Spice was readily available and perceived differently in 2009, prior to General Order #3. The Board considered the unique environment of the time and understood other factors outside the Applicant's control may have played a factor in the Applicant's discharge.

The DRB also considered the Applicant's successful rehabilitation and achievements after leaving the Air Force. Graduation from an Ivy League institution and pursuit of a Doctoral program demonstrated significant personal growth and responsible behavior, suggesting the discharge narrative reason of "Drug Abuse" no longer accurately reflected the Applicant's character. The DRB determined, based on submitted evidence, that relief in the form of change to the narrative reason for Applicant's discharge seemed reasonable, and voted to approve a change to "Secretarial Authority."

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" on the application. The Applicant, through counsel contended (in part) "during the first few months that I was at a military base outside of the US, I had a difficult time adjusting to the military life and being far away from home, which led to my first symptoms of depression." They also stated they gained weight despite exercising and not changing their eating habits and that "their weight gain coincided with the onset of their depression and was also a source of ridicule from their fellow airmen, which had a circular effect of causing a deeper depression."

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

A review of the Applicant's in-service medical records did not reveal any mental health diagnoses and no appointments/contact with mental health. The Applicant's testimony revealed the Applicant believed he was suffering from undiagnosed depression during his time in service. A review of the Applicant's written response to their Article 15, revealed the Applicant stated, 'depression was the main factor for me,' in explaining why they engaged in misconduct.

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 one year and six months, time in service. A review of Applicant's medical records revealed they did not seek or obtain mental health treatment while in service, but the Applicant contended they had an undiagnosed mental health condition (depression), and they did not seek out treatment due to social pressure and not wanting to appear 'weak' to their co-workers and leadership. The Applicant was discharged due to drug use their service records reveal a history of pre-service alcohol use and associated criminal charges. Based on the available evidence in the Applicant's records along with the Applicant's testimony in his application, there is evidence the Applicant was having difficulty adjusting to military life during their brief time in service. The Applicant reported they chose to use drugs in a way that was incompatible with military service, which may explain the Applicant's drug use, but it does not mitigate the Applicant's misconduct.

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

Based on a review of the available records, there is no evidence to support a connection between the Applicant's contended untreated depression during their time in service and the misconduct that led to their discharge. Therefore, the condition does not outweigh the discharge.

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.

b. Relief should not be reserved only for those with exceptional aptitude; rather *character and rehabilitation should weigh more heavily than achievement alone*. An applicant need not, for example, attain high academic or professional achievement in order to demonstrate sufficient rehabilitation to support relief. *The Applicant's post-service dedication to academic pursuits, culminating in an Ivy League degree and pursuit of a PhD, demonstrated significant rehabilitation and personal growth. This, coupled with the implied cessation of substance abuse, outweighed the need for exceptional professional achievements.*

g. The relative severity of some misconduct can change over time, thereby changing the relative weight of the misconduct in the case of the mitigating evidence in the case.

The Board recognized the evolving understanding of spice and its legal status in 2009. The stringent discharge practices of the time, exacerbated by the reduction in the force (RIF), further contextualized the misconduct, lessening its relative severity.

k. Relief is generally more appropriate for non-violent offenses than for violent offenses.

The Applicant's non-violent nature of the spice use, compared to more serious offenses, supported the appropriateness of relief.

l. Changes to the narrative reason for a discharge and/or upgraded character of discharge granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, the payment of past medical expenses, or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded character.

The Applicant's request for a narrative change, rather than financial benefits, clearly aimed to correct the record and mitigate future prejudice. This resonated with the Board's focus on equity.

d. Positive or negative post-conviction conduct, including any arrests, criminal charges, or any convictions since the incident at issue.

The Applicant provided evidence of positive contributions beyond academics, including community involvement and volunteer work, further demonstrating positive character development.

i. Character and reputation of applicant.

Submitted character references attested to the Applicant's post-service growth, highlighting positive attributes and a clear departure from the behavior that led to the discharge. These references painted a picture of a responsible and contributing member of society.

l. Evidence of rehabilitation.

The Applicant's academic achievements, combined with testimonials regarding their sobriety and responsible behavior, solidified the narrative of rehabilitation and personal transformation.

n. Job history.

Despite pursuing a PhD, the Applicant provided evidence of consistent employment history, demonstrating responsible engagement in society and further supporting their rehabilitation.

p. Character references.

The submitted character references persuasively portrayed the Applicant's current character and rehabilitation, attesting to their integrity and positive contributions to their community.

q. Letters of recommendation.

Letters of recommendation from academic and professional mentors highlighted the Applicant's potential and positive qualities, further bolstering their case for a narrative change. These letters underscored their capabilities and commitment to future success.

FINDING: The DRB voted unanimously to **deny** the Applicant's request to upgrade their discharge characterization. The DRB voted unanimously to **approve** a change to 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.

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

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 inequitable. Therefore, the awarded characterization of service shall remain "Under Honorable Conditions – (General)," the narrative reason for separation shall change to "Secretarial Authority," and the reentry code shall remain "2B." The DRB results were approved by the Presiding Officer on April 4, 2025. 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

Attachment:

Examiner's Brief (Applicant Only)

