



Marines under your charge to wrongfully use a controlled substance. On 15 March 2006, the Commanding Officer, █ Battalion recommended that you be administratively discharged on the basis of misconduct due to drug abuse and commission of a serious offense. On 27 April 2006, you acknowledged that you had been evaluated and counseled regarding your substance abuse; the acknowledgement indicated that you refused screening/treatment. On 17 May 2006, you were discharged on the basis of misconduct and received an other than honorable discharge and a reentry (RE) code of RE-4B.

In your application for correction, you request an upgrade to your other than honorable discharge on the basis of being a first time offender and a good Marine. You assert that the misconduct reflected in your record was the first time you got into trouble in the Marines. You state you never failed a drug test and the punishment was too harsh for what you actually did. You assert that you felt an unbearable amount of depression and anxiety. You provide supporting documents to include personal statement and character letters.

As part of the review process, a Licensed Clinical Psychologist reviewed your request and issued an Advisory Opinion dated 4 September 2021. The Advisory Opinion noted that you did not provide clarifying information about the trauma related to undiagnosed Post Traumatic Stress Disorder (PTSD). The Advisory Opinion stated that the preponderance of available evidence failed to establish that you suffered from a mental health condition at the time of your military service or that your in-service misconduct could be mitigated by a mental health condition. The Advisory Opinion was provided to you, and you were given 30 days in which to submit a response. When you did not provide a response within the 30-day timeframe, your case was submitted to the Board for consideration.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your statements that the punishment was too harsh and that you were a first time offender, and also in consideration of a potential mitigating mental health condition. The Board reviewed the analysis and conclusions of the Advisory Opinion. The Board noted that a finding of unfitness for a mental health condition did not have bearing on its determination of whether you suffered from a mental health condition at the time of your service that may have mitigated your misconduct. However, the Board determined that the evidence that you provided did not establish that you suffered from a mental health condition that may have mitigated your in-service misconduct. The Board considered that you admitted to ongoing wrongful use of controlled substances to include wrongful use of marijuana while on deployment. The Board also considered that you were found guilty of dereliction of duty by willfully allowing Marines under your charge to wrongfully use a controlled substance. The Board found that your positive contributions to the Marine Corps and your sole finding of guilty at summary court martial did not sufficiently mitigate the seriousness of your misconduct as reflected in your in-service admission. The Board concluded that your current discharge with an other than honorable characterization of service is proper as issued and that corrective action is not warranted.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

10/22/2021

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Executive Director

Signed by: █