



nonjudicial punishment for using marijuana. Despite your nonjudicial punishment from earlier in the month, on 26 August 1982 you tested positive for the use of marijuana. On 21 January 1983, you again tested positive for use of marijuana. On 27 January 1983, you received nonjudicial punishment for using marijuana. Again, despite your recent nonjudicial punishment, on 3 March 1983, you again tested positive for use of marijuana. On 24 January 1983, you were notified of the initiation of administrative separation processing and your rights in connection therewith. You waived your right to an administrative separation board. On 29 March 1983, you were notified again of the initiation of administrative separation processing and your rights in connection therewith, and you again waived your right to an administrative board. On 6 May 1983, the discharge authority directed that you be discharged by reason of misconduct with an other than honorable characterization of service, and on 17 June 1983, you were so discharged.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. You contend in your petition that you served in the Navy for over two years, which you contend makes you eligible for benefits. You state that you have real life mental health issues as well as back problems that were caused by being in the Navy. In your personal statement in support of your petition, you describe your history of extensive use of marijuana and hashish since the time you were approximately 10 years old.

In connection with your assertion that you suffered from a mental health condition, the Board requested, and reviewed, the AO. The AO reviewed your service record as well as your petition and the matters that you submitted. According to the AO:

Petitioner's service records do not indicate a diagnosis of a mental health condition other than substance abuse. There are no post-service records which indicate a diagnosis of a mental health condition other than the Petitioner's limited statement. Additional information, such as post-service treatment records describing the Petitioner's mental health diagnosis and its specific link to his misconduct, are required to render an alternate opinion. Should the Petitioner choose to submit additional records, they will be reviewed in context of his claims.

The AO concluded, "it is my considered medical opinion that there is insufficient evidence that the Petitioner incurred PTSD or another unfitting mental health condition during his military service, and there is insufficient evidence that his misconduct should be attributed to a mental health condition."

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. With respect to your contention relating to a mental health condition, the Board concurred with the findings of the AO. The Board carefully considered your personal statement, and determined that, while it is sympathetic to the struggles you described that you have encountered in life, the Board was unable to find a basis upon which to grant relief. The Board noted that despite your written warning and several nonjudicial punishments, you persisted in committing misconduct while you were in the Navy. Thus, in light of your receipt of nonjudicial punishment on five occasions, as well as the finding of the

AO that found no mental health condition that could mitigate your misconduct, after considering the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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,

1/13/2022

█

Executive Director

█