

urinalysis test was positive for marijuana metabolites. You were notified of processing for administrative separation for misconduct due to drug abuse and, on 11 August 2004, convicted by Summary Court-Martial (SCM) of violating Article 112a, wrongful use of a controlled substance, and Article 134. You waived your hearing before an administrative separation board, and you were discharged on 26 August 2004 with an Other Than Honorable (OTH) characterization of service due to drug abuse.

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. The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and your contention that your discharge is unjust because you voluntarily enlisted to serve, that you served for over 3 years as an assaultman, that you developed post-traumatic stress disorder (PTSD) from your high level of responsibility for weaponry and fear for your life, and that you used marijuana to cope with stress. The Board noted that you also contend earning several awards, to include a Good Conduct Medal; however, there is no evidence in your record of a GCM being issued, which does not appear to be an error since your first documented instance of misconduct appears to pre-date the requisite 3-year period of continuous honorable service for the award of the GCM. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Because you contend a mental health condition, the Board also considered the AO, which noted in pertinent part:

Petitioner's OMPF did not contain evidence of a diagnosis of a mental health condition. Unfortunately, Petitioner did not provide clarifying information about the trauma related to his PTSD (i.e., when the trauma occurred, symptoms experienced). The lack of clarifying information made available did not provide enough markers to establish an onset and development of mental health symptoms or identify a nexus with his misconduct. Although Petitioner acknowledged his smoked marijuana as a means to cope with stress, there was no evidence presented that indicated Petitioner's experience of life stressors was extraordinary or unique or that Petitioner met the diagnostic criteria for a mental health condition during his military service.

The AO concluded, "[b]ased on the available evidence, it is my considered clinical opinion the preponderance of available objective evidence failed to establish Petitioner suffered from a mental health condition at the time of his military service or his in-service misconduct could be mitigated by a mental health condition."

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. Further, the Board concurred with the AO that there was insufficient evidence that your misconduct could be mitigated by a mental health condition. As a result, the Board concluded

your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, the Board determined that your request does not warrant 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 is attached 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, _____

6/6/2022

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Executive Director

Signed by: █