



underage drinking. The Page 13 expressly warned you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for an administrative separation. You did not make a Page 13 rebuttal statement.

However, on 9 September 2000, you received NJP for underage drinking and for being incapacitated for duty through the wrongful prior indulgence of alcohol. You did not appeal your NJP. On 21 September 2000, you were issued a Page 13 documenting your NJP. The Page 13 expressly warned you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for an administrative separation. You did not make a Page 13 rebuttal statement.

On 26 October 2001, you received another NJP for the wrongful use of a controlled substance (marijuana). You appealed your NJP but the GCMCA authority denied your appeal. On 8 March 2002, you received NJP for unauthorized absence, insubordinate conduct, and dereliction in the performance of duties. You did not appeal your NJP.

On 11 March 2002, you were notified of administrative separation proceedings by reason of: (a) misconduct due to drug abuse, (b) misconduct due to the commission of a serious offense, and (c) misconduct due to a pattern of misconduct. You waived in writing your rights to consult with counsel, submit written rebuttal statements, and to request an administrative separation board. In the interim, you expressly refused the opportunity to receive drug and/or alcohol treatment prior to separation. Ultimately, on 10 April 2002, you were discharged from the Navy for misconduct with an Other Than Honorable (OTH) characterization of service and assigned an RE-4 reentry code.

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: (a) many years have passed since being separated from the Navy, (b) a lot of shame and embarrassment came with your separation and the stress of the shame is a burden, (c) you admit to violating the “zero tolerance” policy and should have risen above the shipmate you were supposed to be, (d) you apologize to the Navy, your shipmates, and your family, (e) despite your wrong you were an amazing Sailor, and (f) you would like to rejoin the military. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

The Board unequivocally did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board also determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of

record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

Additionally, the Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board carefully considered any matters submitted regarding your character, post-service conduct and personal/professional accomplishments, however, even in light of the Wilkie Memo and reviewing the record holistically, the Board still concluded that given the totality of the circumstances your request does not merit relief. Accordingly, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your misconduct clearly merited your receipt of an OTH.

The Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Lastly, absent a material error or injustice, the Board generally will not summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities, including military enlistments. As a result, the Board concluded that you received the correct discharge characterization and reentry code based on the totality of your circumstances, and that such action was in accordance with all Department of the Navy directives and policy at the time of your discharge. 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, given 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 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,

7/6/2022

