



result in disciplinary action or administrative processing, possibly leading to an Other than Honorable (OTH) characterization of service.

On 11 May 1984, you received non-judicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ) Article 112(a), for wrongful use of a controlled substance. You did not appeal this NJP. As a result of this positive urinalysis, you were placed on a urinalysis screening program on 29 May 1984. Between 29 May and 24 July 24, you screened positive for drugs on five separate occasions. All five urinalyses tested positive for marijuana and on two occasions, you also tested positive for cocaine.

On 24 September 1984, you were notified that you were being processed for an administrative discharge by reason of misconduct due to drug abuse. You were informed of your right to consult with qualified counsel and your right to present your case at an administrative separation board. Ultimately, on 21 November 1984, you were discharged from the Navy for misconduct with an OTH characterization of service and assigned an RE- 4 reentry code.

The Board carefully considered all potentially mitigating and/or extenuating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to: (a) your desire to upgrade your characterization of service, (b) your age at the time of your misconduct, (c) your contention that you were being harassed due to your race and gender during service, and (d) the stress caused by your mother's health condition. For purposes of clemency consideration, the Board noted you provided character letters.

As part of the Board review process, the BCNR Physician Advisor who is a licensed clinical psychologist (Ph.D.), reviewed your contentions and the available records and issued an AO dated 14 October 2022. The Ph.D. noted in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition in military service or that she exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. She has provided no medical evidence in support of her claims. Unfortunately, neither her personal statement nor letter submitted from her friend are sufficiently detailed to establish clinical symptoms or provide a nexus with her misconduct. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) would aid in rendering an alternate opinion.

The Ph.D. concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that her misconduct could be attributed to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board felt that your misconduct, as evidenced by your seven positive drug tests, outweighed these mitigating factors. In accordance with the Kurta, Hagel, and Wilkie Memos, the Board gave liberal and special consideration to your record of service, and your contentions about the stressful events occurring your life and their possible adverse impact on your service. The Board considered the seriousness of your misconduct and the fact

that it involved a drug offense. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that illegal drug use is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates. In making this determination, the Board concurred with the advisory opinion that there was no convincing evidence that you suffered from any type of mental health condition while on active duty, or that any such mental health condition was related to or mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related symptoms. The Board noted that your pre-enlistment medical examination and self-reported medical history noted no psychiatric or neurologic conditions or symptoms. Moreover, the Board observed that you did not submit any clinical documentation or treatment records to support your mental health claims despite a request from BCNR on 19 August 2022 to specifically provide additional medical documentation. The Board found that your active duty misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. While the Board commends your post-discharge accomplishments, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. 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,

12/15/2022

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Executive Director

Signed by: █