

separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation for administrative discharge and directed your OTH discharge from the Marine Corps. On 4 May 2006, you were discharged from the Marine Corps with an OTH characterization of service by reason of misconduct due to commission of a serious offense.

On 23 January 2007, the Marine Corps, Legal Services Support Section, Staff Judge Advocate reviewed your SCM conviction and determined that the SCM was in error, in that “the court-martial did not have jurisdiction over the accused pursuant to the Rule for Courts-Martial 201(b).”

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 desire to change your reenlistment code and contention that the record is in error because an Army 1st LT conducted your court-martial. The Board also considered your assertions that you desire to reenlist, complete the job you first set out to do, and correct your mistakes as you have learned a hard lesson the hard way. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your two NJPs, outweighed these mitigating factors. Notwithstanding the SCM, in making this finding, the Board considered the seriousness of your misconduct, the fact it involved a long-term UA and a drug offense. The Board determined that illegal drug use by a Marine is contrary to Marine Corps core values and policy, renders such Marines unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. 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. Ultimately, the Board found that your misconduct was intentional and made you unsuitable for continued naval service. As a result, the Board determined your conduct constituted a significant departure from that expected of a Marine and continues to warrant an RE-4 reenlistment code. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants changing your reenlistment code or granting clemency in the form of a different reenlistment code that allows reenlistment. Accordingly, given the totality of the circumstances, the Board determined 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,



Executive Director

Signed by: 