



with a General (Under Honorable Conditions) characterization of service by reason of misconduct 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. These included, but were not limited to, your desire to upgrade your discharge character of service and contention that a correction should be made to your record due to the settlement agreement case Manker, v. Del Toro, special cases reapplication. For purposes of clemency consideration, the Board noted you provided supporting documentation describing post-service accomplishments and 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. Further, the Board considered the likely negative effect your misconduct had on the good order and discipline of your command. The Board also determined that illegal drug use by a Sailor is contrary to Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Ultimately, based on your admission that you wrongfully used the controlled substance, the Board found that your misconduct was intentional and made you unsuitable for continued naval service. Finally, the Board was not persuaded by your argument that the Manker vs Del Toro settlement supports a correction in your case and noted you provided no evidence in support of this contention. As a result, the Board determined significant negative aspects of your service outweigh the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. While the Board considered your supporting documentation and commend you for your post-discharge good character and 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 clemency in the form of an upgraded characterization of service. 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,

10/25/2022

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