



Duty (DD Form 214), you were separated from the Navy, on 29 December 2005, with an “Other Than Honorable Conditions (OTH)” characterization of service, your narrative reason for separation is “Misconduct (Drug Abuse),” your reenlistment code is “RE-4,” and your separation code is “HKK,” which corresponds to 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 change your narrative reason for separation. The Board also considered your contentions that: 1) you had one act of indiscretion; 2) you made an uncharacteristically bad decision; 3) your single act of indiscretion was found to violate the UCMJ regulation, 4) that single offense should not have been enough to cause you to receive an OTH discharge; and 5) your discharge took place 17 years ago, it is unjust to continue to characterize and punish you with this discharge, especially considering the circumstances. The Board further considered your assertions that you were performing your duties in an exemplary manner and, since your discharge, you have developed yourself to be a model citizen, do not have a criminal record, and have no involvement with drugs, alcohol abuse, or any involvement with law enforcement. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough 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. The Board 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. Further, the Board considered the likely negative effect your misconduct had on the good order and discipline of your command. Additionally, there is no precedent within this Board’s review, for minimizing the “one-time” isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. 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 good conduct, 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, changing your narrative reason for separation, or granting relief as a matter of clemency or equity. 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,

11/18/2022

