

evidenced by your drug abuse, at which time you waived your right to consult with military counsel and to have your case heard before an administrative discharge board. On 29 July 1983, you received a second NJP for the use of marijuana. On 19 August 1983, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service for drug use. On 30 August 1983, you were offered and declined rehabilitation at a department of veterans affairs (VA) hospital. On 2 September 1983, you were so discharged.

Post-discharge, you submitted a request for a discharge upgrade via the Naval Discharge Review Board (NDRB). On 6 September 1985, the NDRB denied your request after determining your discharge was proper as issued.

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 and your contentions that: (1) the laws for using marijuana have changed, (2) you were discharged as a result of a urinalysis, (3) you have been clean and sober for over 30 years, and (4) as you near retirement age you would like to obtain Department of Veterans Affairs (VA) benefits. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Contrary to your contention, 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. Based on these factors, the Board found that your conduct showed a complete disregard for military authority and regulations. As a result, the Board concluded 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 character, 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 the 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, _____

1/15/2023

