



You were advised of your procedural rights; you waived your procedural right to consult with military counsel, and to present your case to an administrative discharge board (ADB). On 26 August 2005, you were issued a Page 11 counseling concerning your refusal for medical treatment for possible substance abuse and/or dependence. You acknowledged that you were provided the Veterans Administration Medical Facility information so that you may locate the nearest treatment facility in your area upon your discharge. Your commanding officer (CO) forwarded your administrative separation package to the 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 2 December 2005, you were discharged from the Marine Corps with an OTH 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 change your discharge character of service and contentions that you made a mistake after your second tour in Iraq, you were not offered any help, and you were just kicked out after serving “three years and six months honorably.” For purposes of clemency and equity consideration, the Board noted you provided a letter regarding your meritorious promotion, but no 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 positive urinalysis, 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 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. Further, the Board considered the likely negative effect your misconduct had on the good order and discipline of your unit. Furthermore, there is no precedent within this Board’s review, for minimizing a one-time 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. In regard to your contention, your command was under no obligation to send you to drug rehabilitation treatment unless it was determined, by competent medical authority, that you were drug dependent. There is no evidence in your record that shows you were drug dependent. Regardless, the evidence in your record documents that you refused treatment. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. 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 granting you the relief you requested 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,

4/18/2023



Executive Director