



incident” with no dependence and determined no treatment necessary, and recommended your administrative discharge from the Marine Corps in accordance with naval regulation. On 30 December 1999, CO, █ Marines recommended that your administrative separation be suspended for a period of one year.

On 7 March 2000, after consulting with military counsel, you submitted a request for suspension of your administrative discharge. You requested that the Commanding General suspend any administrative discharge awarded for a period of twelve months, or until your EAS whichever came first. You further noted that you understood that if the suspension was granted, any further misconduct on your part will cause the vacation of your suspended administrative discharge and execution of your separation from the Marine Corps.

On 23 June 2000, pursuant to a pre-trial agreement, you pleaded guilty and were convicted by a summary court-martial (SCM) of unauthorized absence, a period totaling 21 days, and wrongful use of marijuana. As punishment, you were sentenced to confinement, reduction in rank to E-1 and forfeiture of pay. As a result, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to drug abuse. You elected your procedural right to consult with military counsel, you waived your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an OTH characterization of service. The SA approved the recommendation for administrative discharge, and directed your OTH discharge from the Marine Corps by reason of misconduct due to drug abuse. On 6 October 2000, you were so discharged.

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 reinstate your rank. You contend that you were improperly demoted in rank, your “disability” contributed to your discharge, the mental damage “it” has caused over the years cannot be repaired, at the time of the events you really did not think anything was wrong because it was happening to so many other Marines, and you were let down by a failed system. You assert that you have always been misled, misinformed, and never thought you were eligible for discharge upgrade, let alone any benefits. Additionally, the Board noted you checked the “PTSD” and “Sexual Assault/Harassment” box on your application but chose not to respond to the letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board noted you provided an advocacy letters and certificates describing post-service accomplishments.

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 and SCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple 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. Additionally, 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. The Board also considered the likely negative impact your conduct had on the good order and discipline of your unit. Further, the Board found that your misconduct was intentional and made you unsuitable for continued naval service. Furthermore, the Board also determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions. The Board noted that you were provided an opportunity to correct your deficiencies during your service, however, you continued to commit additional misconduct. Finally, the Board noted that you did not provide any evidence, other than your statement, to substantiate your contentions, and absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. 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. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

10/17/2023

