



service and your contentions that you were told your discharge would automatically upgrade after six months, you were young and trying to fit, you were involved with the wrong people, and made some mistakes. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to submit any evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the documentation you provided 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 NJPs, 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. 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 repeated misconduct had on the good order and discipline of your command. The Board observed that you were given multiple opportunities to address your conduct issues but you continued to commit misconduct. Finally, the Board determined that there is no provision in law or regulations that allows for re-characterization automatically after six months or due solely to the passage of time.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an under Other Than Honorable conditions characterization. While the Board carefully considered the evidence you submitted in mitigation and commends your post-discharge 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 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 that 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,

11/24/2023

