



discharge board. The Separation Authority directed your discharge with an OTH characterization of service and you were so discharged on 27 August 2003.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 21 February 2008, based on their determination that 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 change your discharge characterization of service and your contentions that you were wrongfully punished for a mistake made by your roommate and you did not test positive for drug use. For purposes of clemency and equity consideration, the Board considered your statement and the advocacy letters you provided.

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 SPCM, 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 or possession 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 was not persuaded by your claim that you were a victim of circumstance and your roommate's misconduct. The Board noted the assertions made in your advocacy letters that you were holding the drugs for your roommate, did not use the drugs, and took the blame yourself when questioned about the owner of the drugs. However, the Board determined that you provided no evidence to substantiate your contentions and that failure to test positive for drugs does not negate your wrongful possession of illegal drugs. Further, the Board noted you pleaded guilty at your SPCM. Therefore, if what is contended is true, you perjured yourself on multiple occasions at your SPCM by pleading guilty to the drug offense and describing your culpability during providence questioning by the military judge; offenses that likely would result in a punitive discharge. The Board further noted your repeated misconduct, the likely negative impact it had on the good order and discipline of your command, and that you were given an opportunity to address your conduct issues but continued to commit misconduct.

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 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,

12/5/2023

