



I first starting using marijuana at age ten (10)...my two older brothers pretty much raised me while disciplining me at the same time. They smoked marijuana all the time and every now and then when I wasn't sneaking it from them, they also let me have a puff or two of their Marijuana joints and that's where my addiction started. I so much wanted to be just like my two older brothers know [sic] matter how bad or wrong they were.

On 8 December 1980, you received non-judicial punishment (NJP) for failing to obey a lawful order. You did not appeal your NJP. On 2 November 1981, you received NJP for unauthorized absence (UA) and for insubordinate conduct. You did not appeal your NJP. On 6 November 1981, your command issued you a "Page 13" retention warning (Page 13) where you acknowledged that any further involvement of a discreditable nature with military or civil authorities may lead to processing for an administrative discharge by reason of misconduct. You also expressly understood that an under Other Than Honorable conditions (OTH) discharge could deprive you of virtually all veterans' benefits and also result in substantial prejudice in civilian life.

On 12 June 1982, you received NJP for violating a lawful written order and for making a false official statement. You did not appeal your NJP. On 5 August 1982, you received NJP for violating a lawful general regulation when you used marijuana. On 26 August 1982, your command issued you a Page 13 documenting your testing positive for marijuana. The Page 13 advised you that your positive urinalysis may be used as an incident for purposes of administrative separation from the Navy under all conditions should you be convicted of a drug-related offense under the UCMJ or produce another positive urine sample.

However, on 21 January 1983, your command issued you another Page 13 documenting you testing positive again for marijuana. The Page 13 advised you that your positive urinalysis may be used as an incident for purposes of administrative separation from the Navy under all conditions should you be convicted of a drug-related offense under the UCMJ or produce another positive urine sample. On 27 January 1983, you received NJP for violating a lawful general regulation when you used marijuana again.

On 25 February 1983, your command notified you that you were being processed for an administrative discharge by reason of misconduct. In the interim, your separation physical examination, on 21 March 1983, noted no neurologic or psychiatric conditions or symptoms. On 29 March 1983, your command re-notified you that you were being processed for an administrative discharge by reason of misconduct. You consulted with counsel and subsequently waived your right to request an administrative separation board.

On 21 April 1983, you received NJP for two separate specifications of UA. You did not appeal your NJP. Ultimately, on 17 June 1983, you were discharged from the Navy for misconduct with an OTH characterization of service and assigned an RE-4 reentry code.

On 13 December 2021, this Board denied your initial petition for relief.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and contentions that: (a) you realized mistakes were done, and you were young and having personal issues in your life that you were not able to overcome by yourself, (b) now you are a mature and responsible man, (c) you were not happy the way you left the service but you will always be proud of the time you served in the Navy, (d) today you are in therapy on a regular basis to help deal with your childhood trauma, mistakes, and possible psychological addiction, (e) you truly apologize for anything that occurred during your time in service, and (f) today you are a responsible citizen and a first responder, and you help others with their recovery from drugs. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

As part of the Board review process, the BCNR Physician Advisor who is a licensed clinical psychologist (Ph.D.), reviewed your contentions and the available records and issued an AO dated 22 October 2021. The Ph.D. stated in pertinent part:

Petitioner's service records do not indicate a diagnosis of a mental health condition other than substance abuse. There are no post-service records which indicate a diagnosis of a mental health condition other than the Petitioner's limited statement. Additional information, such as post-service treatment records describing the Petitioner's mental health diagnosis and its specific link to his misconduct, are required to render an alternate opinion. Should the Petitioner choose to submit additional records, they will be reviewed in context of his claims.

The Ph.D. concluded, "it is my considered medical opinion that there is insufficient evidence that the Petitioner incurred PTSD or another unfitting mental health condition during his military service, and there is insufficient evidence that his misconduct should be attributed to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any mental health conditions and/or related symptoms and your misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to any mental health-related conditions or symptoms. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also

