



On 14 September 2004, you were issued a Page 11 counseling concerning your lack of judgement and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 10 February 2005, you pleaded guilty at Special Court Martial (SPCM) of distribution of marijuana, a controlled substance, on divers occasions, at █, between about July 2004 and October 2004. You were sentenced to reduction in rank to E-1, confinement for ten months, and a Bad Conduct Discharge (BCD). On 8 December 2005, the U.S. Navy-Marine Corps Court of Criminal Appeals affirmed the findings and sentence in your case, and you were discharged with a BCD on 26 April 2006.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 2 July 2019, 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 employment has been difficult to find, you have worked in multiple hospitals providing care to others, you worked as a contact tracer for the Department of Health during the pandemic, and you now work for the Department of Veteran's Affairs (VA) providing care to Veterans. For purposes of clemency and equity consideration, the Board considered your statement and the documentation of your post-service accomplishments you provided, including your SF-50 from the Veteran's Health Administration, your ASE certifications, your Public Health Institute limited appointment letter, the █ Department of Public Health certification detail page, your Real Estate license, and a certificate of completion for COVID-19 contact tracing.

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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved the distribution of drugs. The Board determined that illegal drug distribution 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. They further considered the service-discrediting nature of your offense and negative impact your misconduct had on the good order and discipline of your command. Finally, 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 a BCD characterization. While the Board carefully considered the evidence you submitted in mitigation and commends you on 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,

2/16/2024

