



On 8 July 2002, you were issued Page 11 counseling regarding your marijuana usage identified through Navy Drug Lab messages, on 10 June 2002 and 01 July 2002, and your subsequent meeting with a substance abuse counselor.

On 22 July 2002, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and your commanding officer was directed to issue you an under Other Than Honorable conditions (OTH) discharge. On 15 August 2002, 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 characterization of service and your contentions that your two failed urine tests were too close together in time, the drugs did not have time to exit your system, you were young when the misconduct occurred, and your post-discharge conduct supports an upgrade. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but chose not to respond to the 23 February 2024 letter from the Board requesting evidence in support of your claim. 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 request for separation in lieu of trial by court-martial, 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 also considered the likely negative impact your misconduct had on the good order and discipline of your command. Finally, the Board considered your contention that your two failed drug tests were too close together. The Board noted that a single positive urinalysis was sufficient for trial by court-martial, and, if found guilty, you could have received a punitive discharge for that offense. Further, the Board considered that you admitted to your misconduct as part of your request to be discharged in lieu of trial by court-martial. Finally, the Board opined that considerable clemency was already extended to you when your request for discharge to avoid trial by court-martial was approved.

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 and commends you for 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,

7/24/2024

