



recommended administrative separation with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to commission of a serious offense (for missing ship's movement) and for homosexuality. The Separation Authority subsequently directed your discharge with an OTH characterization of service by reason of misconduct – commission of a serious offense, and you were so discharged on 21 November 1983.

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 and Stanley Memos. These included, but were not limited to, your desire to change your discharge characterization of service and your contentions you went UA and missed ship's movement because you feared harassment from other Sailors because you had been arrested by civilian authorities after a local policeman found you and "another individual in a state of undress," you would not have received an OTH under today's policies, and having "Homosexual Conduct" on your DD Form D214 has prevented you from attaining a nexus card. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 repeated misconduct and the likely negative impact your conduct had on the good order and discipline of your command. The Board further noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately led to your discharge for misconduct due to commission of a serious offense.

The Stanley Memo sets forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to normally grant requests for relief when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct. In your case, the Board determined aggravating factors of misconduct exist in your record and you were not discharged based solely on DADT or a similar policy. The Board considered that you were processed for both homosexual conduct and commission of a serious offense. The Board further noted that there is no mention of homosexual conduct on your DD Form 214 and your approved reason for separation, as indicated on your DD Form 214, was misconduct due to commission of a serious offense.

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. Even in light of the Wilkie and Stanley Memos 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. 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,

10/28/2024

