



1982, you received NJP for the sixteen days of UA. On 6 December 1982, you received NJP for four hours of UA from your appointed place of duty. On 22 December 1982, you received a medical/psychological evaluation and were determined to be a recreational cannabis user and not dependent on alcohol or drugs. On 23 December 1982, you were found guilty at Summary Court Martial (SCM) of wrongful possession of marijuana.

On 15 April 1983, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct. You elected to consult with legal counsel and subsequently waived your right to an administrative discharge board. You elected to submit a statement where you attempted to explain your misconduct, including that you were denied a leave extension, you overslept, you forgot about having watch, you had no one to watch your children, and that you were wearing someone else's clothing when you were found with a roach clip in your uniform. The separation authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 18 May 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 Memo. These included, but were not limited to, your desire to change your discharge characterization of service and your contentions that you were falsely accused of a fight you did not participate in and that you were told your discharge would automatically be upgraded to General (Under Honorable Conditions) in six months. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any additional documentation.

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 and SCM, 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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Finally, the Board noted that you provided no evidence, other than your statement, to substantiate your contentions. However, the Board observed no evidence in your record of you being disciplined for assault or fighting and determined that it was not a basis for your separation. The Board also noted that there is no provision of federal law or in Marine Corps regulations that allows for a discharge to be automatically upgraded after a period of time.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. 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. 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,

