



apprehension, and communicating a threat to an NCO. 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 (CO) was directed to issue an other than honorable (OTH) discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction, as well as the potential penalties of such a punitive discharge. On 7 June 1979, you were 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 upgrade your discharge and contentions that all your military enlistment paperwork was falsified, you were enlisted into the Marine Corps under age, you failed the ASVAB test twice but were still enlisted, and you were young and uninformed on how the military worked. The Board also noted your contentions that you are currently retired and have benefits through United Auto Workers and would like a military funeral and to have a Veteran's license plate. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your three NJPs, and request for GOS discharge, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In regard to your contentions that all your military enlistment paperwork was falsified, you were enlisted into the Marine Corps under age, you failed the ASVAB test twice but was still enlisted, and you were young and uninformed on how the military worked. The Board noted that there is no evidence in your record, and you submitted none, to support your contentions. In regard to your contention that you are currently retired and have benefits through United Auto Workers, the Board noted while commendable, your post service conduct does not excuse your conduct while enlisted in the Marine Corps or the basis for your discharge. Regarding your contention that you would like a military funeral and to have a Veteran's license plate, whether or not you are eligible for Veteran's benefits is a matter under the cognizance of the Department of Veteran Affairs (DVA), and you should contact the nearest office of the DVA concerning your right to apply for benefits. If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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,

2/24/2021



Executive Director

Signed by:

