



fourth NJP for an unauthorized absence, wrongful appropriation of a vehicle decal property of the United States Government and absence from your appointed place of duty, to wit: Armory Security Watch. On 14 November 1980, you were convicted by summary court-martial (SCM) of two specifications of failure to go to your appointed place of duty, wrongful possession of marijuana, and failure to obey a lawful order by wrongfully wearing civilian clothing. On 24 December 1980, you received your fifth NJP for three specifications of unauthorized absence, disobeying a lawful order from a superior NCO, and disrespect in language toward a superior NCO.

On 19 February 1981, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You were advised of, and exercised, your procedural right to consult with and to be represented by military counsel, and to present your case to an administrative discharge board (ADB). Prior to the convening of your ADB, on 24 February 1981, you were again convicted by SCM of six specifications of failure to go to your appointed place of duty at the time prescribed and two specifications of failure to obey a written order.

On 24 March 1981, your ADB was convened and found that you committed misconduct and recommended your administrative separation from the Navy with an other than honorable (OTH) characterization of service. Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an OTH characterization of service. The SA approved the recommendation and directed your administrative discharge from the Navy with an OTH characterization of service by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 27 March 1981, you were so discharged.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 4 November 2021. The AO noted that your service record contained a diagnosis of a mental health condition that did not render you unfit for service. The AO further noted that you provided post-service evidence that you incurred an unfitting mental health condition, Persistent Depressive Disorder, in service. However, there is insufficient information regarding your symptoms to consider whether a mental health condition may have mitigated the your misconduct. An unauthorized absence (UA) could be behavior symptomatic of Persistent Depressive Disorder, but your statements in service are counter to your current contention that you did not use marijuana in service. Additional information, such as post service records describing your mental health symptoms and their specific link to your misconduct, are required to render an alternate opinion. Should you choose to submit additional records, they will be reviewed in context of your claims. The AO concluded by opining that there is post-service evidence that you may have incurred an unfitting mental health condition during your military service, but there is insufficient evidence that all of your misconduct could be mitigated by a mental health condition.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that: 1) you were singled out on different occasions, harassed, and treated unfairly because of your race; 2) you experienced racist threats for no apparent reason;

3) you were awarded an “honorable discharge” from a “review board.” The captain in charge decided to keep you in the Navy and harassed you until he could kick you out of the Navy, and not give you your honorable discharge; 4) you never disrespected anyone, or disobeyed any order, never got into any fights, or arguments, only in self-defense; 5) you have never had a drug problem, even though you were drug tested repeatedly; and 6) the unfair treatment you received should not prevent you from receiving the honorable discharge that you deserve. After careful consideration of the AO, your submission of supporting documentation, and applying liberal consideration, the Board did not find an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service.

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 contentions’ as previously discussed and your desire to upgrade your discharge character of service. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct as evidenced by your five NJPs and two SCM convictions outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined 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,

1/24/2022

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Executive Director

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