



support of your application, a personal statement, and exhibits. You state that in October 2004, while deployed onboard the ██████████, you were notified that your aunt had passed. You were placed on emergency leave on 23 October 2004, and were advised to return to ██████████ no later than 9 November 2004 so that you could rejoin the ██████████ in ██████████. In your personal statement, you claim that you flew to ██████████ and were told that your orders were wrong. You assert that you were told to leave, went to your off base apartment, and when you returned to get your orders fixed, you were taken into custody. You contend that when you were sent to the brig you were not given a medical examination and that the only time you were examined was in January 2005 for your separation physical. You also claim that the only time you saw an attorney was when you signed a piece of paper saying you could not reenlist. You assert that you were discharged in violation of the MILPERSMAN because you did not make a written request for an other than honorable administrative discharge in lieu of trial by court martial and because administrative board procedures were not followed. You point out that no charges or administrative separation proceedings are present in your record.

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 statements that you suffered a personal loss with the passing of your aunt and that when you returned to the Norfolk area to execute orders and rejoin the ██████████, you were told that your orders were wrong. The Board found that even in consideration of your statement that you attempted to rejoin your ship, you did not provide sufficient evidence or information to establish that you had authorization to remain absent or that you were unable to resolve your absence before 12 January 2005. Accordingly, the Board found that the misconduct of UA from 1 November 2004 through 12 January 2005 was properly reflected in your record.

The Board also considered your contentions that you did not receive an appropriate medical screening, that you did not make a written request for an other than honorable discharge and that the 14 March 2005 administrative discharge was executed improperly. The Board noted that your available service record does not contain your full administrative separation proceedings. Similarly, your Official Military Record does not contain administrative records relating to your confinement at the brig or relating to a pre-confinement medical screen. However, the Board found that the absence of such documentation does not establish that you were deprived of an appropriate pre-confinement screening or that the execution of the other than honorable discharge in lieu of trial by court martial was erroneous or unjust. The Board considered your claims and weighed the information you provided, but determined that you did not submit sufficient evidence to overcome the presumption of regularity. The Board concluded that even in consideration of the lack of documents in your service record relating to the administrative separation discharge or to your confinement, that your current other than honorable discharge appears to have been issued without error or injustice. Accordingly, the Board determined that corrective action is not warranted.

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,

10/21/2021

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