



Following your second SPCM, the record shows that on 8 September 1980, you commenced a period of unauthorized absence that subsequently concluded upon your apprehension on 30 May 1984. On 27 June 1984, you submitted a written request for separation in lieu of trial by court-martial for an unauthorized absence from 8 September 1980 to on or about 30 May 1984. Prior to submitting this request, you conferred with a military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you admitted your guilt to the foregoing offenses and acknowledged that your characterization of service upon discharge would be other than honorable (OTH). The separation authority approved your request and directed your commanding officer to discharge you with an OTH characterization of service. As a result, you were spared the stigma of a court-martial conviction, as well as the potential penalties of a punitive discharge. You were discharged on 13 August 1984.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 16 February 2022. The AO noted that there is no evidence that you were diagnosed with a mental health disorder during your military service. Additionally, throughout your disciplinary processing, there were no concerns raised of a mental health condition that would have warranted additional evaluation, and you have provided no post-service medical evidence of a mental health condition. Unfortunately, your personal statement is not sufficiently detailed to establish a nexus with your misconduct. The AO concluded that additional information is required to render an alternate opinion and stated there is insufficient evidence that you may have incurred PTSD or another unfitting mental health condition during military service or that your misconduct could be attributed to PTSD or another unfitting mental health condition.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contention that your mother and father were both very sick and you chose to stay and help them as best as you could at the time. Unfortunately, the Board, applying liberal consideration, relying on the AO, and noting you did not submit any documentation regarding your PTSD or other mental health conditions, did not find evidence of 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 desire to upgrade your discharge character of service and contention as previously discussed. For purposes of clemency consideration, the Board noted you did not provide a statement or supporting documentation describing post-service accomplishments, or advocacy letters.

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 three NJPs, two SPCM convictions, and an extensive period of unauthorized that formed the basis for your request to be separated from the Marine Corps in lieu of trial by court-martial, outweighed these mitigating factors. In making his finding, the Board concluded your record of misconduct showed a complete disregard for military authority and regulations.

Finally, the Board noted you received a benefit from being allowed to separate with an OTH character of service instead of risking greater punishment at a court-martial that likely would have included a punitive discharge based on the significance of your misconduct. As a result, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or sufficient evidence to warrant clemency. 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,

4/13/2022

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Executive Director

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