



violation of Article 128, UCMJ. On 5 February 1977, you received a third NJP for wrongful possession of hashish onboard your ship. Your fourth NJP occurred, on 9 June 1977, for a two day UA and dereliction of duty in violation of Articles 86 and 92, UCMJ. On 19 September 1977, you received your final NJP for four specifications of UA ranging from 25 minutes to 10 days, missing ship's movement, and breaking restriction in violation of Articles 86, 87, and 134, UCMJ. The same day, you were notified of administrative separation processing by reason of misconduct. You waived an administrative discharge board on the condition your commanding officer would recommend you receive a General (Under Honorable Conditions) characterization of service. On 16 November 1977, you were so 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, desire to upgrade your discharge and contentions that you were the target of many episodes of undocumented harassment while in-service, that you were provoked in to most of your troubles, tried to tell your side of the incidents, but were either formally counseled or sent to Captain's Mast, that you were told you were nothing but a trouble maker and a bigot by white Petty Officers, that you worked as hard as your shipmates but only received negative recognition, that a Petty Officer intentionally directed a plane into your arm while you were pulling the chock and chains off of one side of the jet, and that this Petty Officer also harassed you on other occasions. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

The Board also relied on the AO in making its determination. The AO noted in pertinent part:

Among the available records, there is no evidence that the Petitioner was diagnosed with a mental health condition during military service. Throughout his military processing, there were no concerns raised of a mental health condition that required evaluation. Unfortunately, he has provided no medical evidence in support of his claims. His current statements are temporally remote from military service and inconsistent with his service record. Additional records (e.g., post-service medical records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) are required to render an alternate opinion.

The AO concluded, "[b]ased on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition that could be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your five NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and weighed the negative impact it likely had on the good order and discipline of your command. In addition, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. As a result, the Board concluded that significant negative aspects of your

service outweigh the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. Ultimately, the Board felt you were fortunate not to receive an Other Than Honorable characterization based on brevity of your service and your record of misconduct. Therefore, after applying liberal consideration, the Board 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. 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,

7/5/2022

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Executive Director

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