



You enlisted in the Marine Corps and began a period of active duty on 4 October 1973. On 21 May 1974, you received non-judicial punishment (NJP) for wrongful possession of marijuana. On 25 October 1974, you received your second NJP for unauthorized absence totaling nine days. On 21 November 1974, you submitted a written request for separation for the good of the service (GOS) in lieu of trial by court-martial for wrongful possession of marijuana. 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 offense 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. On 3 January 1975, you were discharged from the Marine Corps with an OTH characterization of service by reason of GOS.

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. The Board also considered your contentions that: 1) you were not in your right mind, you were an “unruly youth,” had schizophrenia, and was a delinquent when you enlisted in the USMC; 2) you were a victim of an injustice; 3) you were not responsible for the charges that were brought against you, you did not have a car or have a driver’s license when the incident occurred; 4) you were in the wrong state of mind when you requested an administrative discharge, because you “accepted the discharge for an easy out”; 5) you still have schizophrenia, which is why you was a delinquent when you joined the USMC, and 6) after your release from the USMC, you have spoken to a several psychologists and you were told that you have had schizophrenia since your childhood. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

As part of the Board’s review, a qualified mental health professional reviewed your request and provided the Board with an AO. The AO noted in pertinent part:

There is no evidence Petitioner was diagnosed with a mental health condition during his service. Petitioner’s post-service diagnosis of is temporally remote from his military service and gave no indication that there is a relation to his military service. Petitioner did not provide clarifying information about his mental health condition (MHC) during his military service (i.e., symptoms experienced). The lack of clarifying information made available did not provide enough markers to establish an onset and development of mental health symptoms or identify a nexus with his misconduct, particularly given his pre-service behavior. Additionally, Petitioner consistently denies participating in the misconduct. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific self-medication role) would aid in rendering an alternate opinion.

The AO concluded, “[b]ased on the available evidence, it is my considered clinical opinion, there is insufficient evidence of a MHC that can be attributed to military service, or that his in-service misconduct could be attributed to a MHC.”

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 two NJPs and GOS request, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact your misconduct included two separate drug offenses. Additionally, the Board noted you already received a large measure of clemency when the Marine Corps accepted your request to be discharged for the GOS in lieu of trial by court-martial. As a result, you were spared the stigma of a court-martial conviction and likely punitive discharge. Further, the Board noted that you provided no evidence to substantiate your allegations of injustice in your misconduct proceedings. Finally, the Board concurred with the AO and determined that there is insufficient evidence of a MHC that can be attributed to military service, or that your in-service misconduct could be attributed to a MHC. As pointed out in the AO, your current diagnosis for Schizoaffective Disorder is too temporally remote in time from your military service to show a nexus. As a result, the Board determined your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. 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 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,

8/3/2022

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Deputy Director

Signed by: ■