



rebuttal also asserted that you would not be late again, you received a third NJP for failure to go to morning physical fitness training at the prescribed time. You received additional counseling that month for unauthorized absences from medical and dental appointments and, in October of 1998, you accepted a fourth NJP for violating your written restriction order by wearing civilian clothes and going to the exchange. As a result of repeated violations of the Uniform Code of Military Justice in spite of repeated warnings regarding your continued misconduct, you were processed for administrative separation for misconduct due to minor disciplinary infractions. You were discharged, on 9 December 1998, with an Other Than Honorable (OTH) 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 and your contentions that: you were a good Marine prior to experiencing medical issues which restricted your ability to perform; that your mother contacted her Congressman about your initial medical problems and you believe action on your subsequent misconduct was taken in reprisal for the inquiry to your command; that you do not believe you were a "bad" Marine as reflected by your current characterization of service; and, that your post-discharge character merits an upgrade under clemency considerations. Further, the Board considered the argument from your local Veteran's Services Officer (VSO) describing the severity of the total punishments you served in your final 180 days of service for minor infractions after suffering chronic illness. For purposes of clemency consideration, the Board noted you provided advocacy letters but no documentation describing post-service accomplishments.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative effect it had on the good order and discipline of your unit. Contrary to your arguments, the Board did not find your orders violations to be minor in nature and concluded it showed a complete disregard for military authority and regulations. Further, although the Board considered your contentions regarding the PEB denial of the MEB recommendation and your allegations regarding the handling of your misconduct as potential retaliation, the Board noted that you have the burden to establish that an error or injustice effected the circumstances of your administrative discharge and, at present, you have not presented sufficient evidence in support of your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. While the Board considered the additional evidence you submitted regarding post-discharge character, it concluded that the favorable matters you submitted for consideration were also insufficient to outweigh the severity and nature of your 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 the 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 is attached 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,

8/18/2022

[REDACTED]