

reconsideration on 10 October 1996, 29 November 1996, and 1 May 2002 due to lack of new evidence.

You enlisted in the Marine Corps and began a period of active duty on 4 September 1973. On 21 February 1974, you received non-judicial punishment (NJP) for unauthorized absence (UA) totaling two days. On 6 June 1974, you were convicted by a summary court-martial (SCM) of five specifications of absence from your appointed place of duty and sleeping on post. On 20 November 1974, you were convicted by a general court-martial (GCM) for stealing a vehicle, a billfold, and a Timex watch from another Marine by means of force, resisting apprehension, sleeping on post, and assault. In 1976, the Court of Military Appeals approved only findings of guilty to UA, resisting apprehension, and larceny. Accordingly, on remand, the Navy Court of Military Review approved only so much of the sentence, which extended to a Bad Conduct Discharge (BCD), confinement, and total forfeitures for one year. On 2 March 1977, you were discharged with a BCD.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge character of service and contentions that your court-martial and the witnesses presented were unfair and you were discriminated. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your NJP, SCM and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of your unit. The Board further concluded that the discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD. Furthermore, the Board noted you provided no evidence to substantiate your contention. Therefore, while the Board considered your contention that you were denied due process, the lack of any substantiating evidence led the Board to be unpersuaded by your arguments. Finally, although you claimed mental health conditions in your current application, the Board noted you did not provide any new medical evidence in support of those claims. An advisory opinion (AO) issued in your most recent case determined that insufficient evidence exists to attribute the full range of your misconduct to your mental health condition. The Board again concurred with the AO based on the lack of evidence. As a result, the Board determined your conduct constituted a significant departure from that expected of a Marine and continues to warrant a BCD. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of

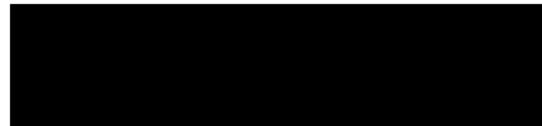
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clemency or equity. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

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,

11/30/2022



Executive Director

