



On 13 June 1973, you were notified of your pending administrative separation by reason of misconduct due to unfitness as evidenced by your frequent involvement with military authorities, at which time you waived your right to consult with military counsel and to have your case heard before an administrative discharge board. On 16 July 1973, the Commanding General directed your discharge be remitted for one year. Despite this opportunity to remain in the USMC, on 25 July 1973, you commenced a period of UA which ended in your surrender after 14 days. As a result, on 23 August 1973, a staff judge advocate's review of your case found the proceedings to be sufficient in law and fact and recommended your suspended discharge be executed. On 31 August 1973, the separation authority agreed, vacated your suspended discharge, and directed you be separated with an undesirable (Other Than Honorable (OTH)) characterization of service for unfitness. On 10 September 1973, 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 Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge and your contentions that: (1) you incurred mental health concerns during your service as a result of sustained physical and emotional abuse by fellow Marines and those in charge, (2) this was as a result of you being a 5 foot 7 inches tall █ male from █, (3) when you sought help you were told to "suck it up" and "get tougher" so you started using marijuana and going AWOL as an escape and means of dealing with your depression, and (4) your desire for Department of Veterans Affairs benefits. For purposes of clemency and equity consideration, the Board noted you provided medical documents, character letters, a personal statement, and evidence of post-discharge accomplishments.

Because you contend that you incurred mental health concerns during military service which might have mitigated your discharge characterization of service, the Board also considered the AO. The AO stated in pertinent part:

The Petitioner contends that he sustained "physical and emotional abuse by fellow Marines and those in charge," while in service which led to mental health issues. He submitted as evidence a letter from his brother (licensed masters in social work), a letter from his wife, and medical records from █. He was hospitalized on an inpatient psychiatric basis for 3 days in December 2018 and discharged with a diagnosis of Unspecified Depressive Disorder. He was also prescribed █ (an anti-depressant medication). Unfortunately, the records submitted are not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited psychological symptoms or behavioral changes indicative of a diagnosable mental health condition.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your three NJPs and SCM, outweighed these mitigating factors. In making this finding, the Board



considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board considered your misconduct included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board concurred with the AO regarding the lack of evidence supporting your contended mental health condition. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. 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 commended your post-discharge accomplishments and good character, 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 clemency or equity. 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,

1/13/2023

