



further violations of the Uniform Code of Military Justice (UCMJ) may result in judicial or adverse administrative action, including but not limited to administrative separation. On 9 August 2013 and 3 October 2013, you received non-judicial punishment (NJP). Your offenses were unauthorized absence (UA) and violation of a lawful general order. On 30 October 2013, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct, at which time you waived your procedural rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. However, the CO recommended that your administrative discharge be suspended for a period of twelve months. The SA approved the CO's recommendation for your administrative discharge from the Marine Corps with an OTH characterization of service by reason of misconduct due to pattern of misconduct, and directed that your administrative discharge be suspended for a period of twelve months.

Following the SA's decision, during the period from 1 April 2014 to 3 May 2016, you were issued three additional Page 11 counselings concerning deficiencies in your performance and conduct. On 24 June 2016, at the expiration of your active obligated service, you were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that annotated your characterization of service as Honorable and your reentry code as "RE-04."

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 change your reentry code and assertions that you did not have suitable male role models, you was very standoffish, and you take accountability for your immaturity at that age. You further assert that during your term of enlistment, you witnessed several traumatic events that brought familiar feelings that you felt from your childhood and you had great NCO's and commissioned officers but you were not able to process the sheer weight of your emotions and it caused you to lose your bearing. For purposes of clemency and equity consideration, the Board noted you provided advocacy letters and your Department of Veterans Affairs rating but no supporting documentation describing post-service accomplishments.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 27 October 2022. The AO noted in pertinent part:

The Petitioner contends that he sustained sexual assault and harassment which might have mitigated the circumstances of his reenlistment code. He submitted as evidence a letter from the Department of Veterans Affairs confirming his Honorable characterization of service. He also submitted 3 letters of recommendation. There is no evidence that the Petitioner was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish

clinical symptoms or provide a nexus with his misconduct. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition (sexual assault and/or harassment) that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

In response to the AO, you provided a personal statement and additional information regarding the circumstances of your case.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your multiple administrative counselings and two NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that after your discharge was suspended, you continued to receive counselings regarding your substandard performance. Ultimately, the Board found that your consistent misconduct was intentional and made you unsuitable for continued naval service. Finally, the Board concurred with the AO that there is insufficient evidence of a mental health condition (sexual assault and/or harassment) that may be attributed to military service, and there is insufficient evidence that your misconduct could be attributed to a mental health condition. As a result, the Board determined your conduct constituted a significant departure from that expected of a Marine and continues to warrant an RE-04 reentry code. While the Board commends your post-discharge accomplishments and apparent maturation, 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 changing your reentry code or changing your reentry code 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 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,

12/4/2022

█

Executive Director

Signed by: █