



In your petition, you request that your original discharge be changed. Your petition did not clearly state the nature of the relief that you requested. However, in support of your request, you asserted that you injured your feet while you were on active duty as a result of being issued ill-fitting boots. As evidence, you provided medical documentation from the U.S. Department of Veterans' Affairs referring to your foot conditions. In light of these assertions, the Board determined you sought a medical discharge as well as an upgrade in your discharge characterization from General (Under Honorable Conditions) to Honorable. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

The Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, and the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health of the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness as defined within the disability evaluation system at the time of your discharge. Notably, the Board observed no evidence that you had any unfitting condition while on active duty. At no time during your service were you referred by a medical evaluation board to be reviewed for potentially unfitting condition or referred to the disability evaluation system. In addition, there is no evidence that any of your commands provided any non-medical assessments setting forth your inability to perform your duties on account of any unfitting condition. To the contrary, the documentation in your record reflected that the reason you were discharged was due to your unsuitability for service as evidenced by your nonjudicial punishment for a lengthy period of unauthorized absence. Indeed, your commanding officer explained that the reason for your discharge was due to your "lack the self-discipline to meet the Marine Corps' demands" and due to "your lack of motivation, the inability to accept instructions and orders." In addition, even after you were processed for expeditious discharge you again received nonjudicial punishment for another absence-related offense.

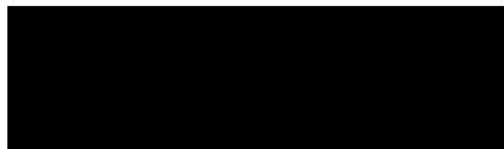
Further, the fact the VA rated you for service connected disability conditions that were diagnosed during your time in the Marine Corps did not persuade the Board these conditions were unfitting at the time of your discharge from the Marine Corps, because eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. As a result, the Board concluded insufficient evidence of error or injustice exists to change your narrative reason for separation to disability.

The Board also determined insufficient evidence exists to upgrade your 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. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your pattern of misconduct showed a complete disregard for military authority and regulations. Further, the Board reasoned that you provided no information that served to demonstrate there was an error or injustice in the assignment to you of a General (Under Honorable Conditions) characterization of service, particularly in light of the imposition of nonjudicial punishment on two occasions, and the negative recommendation of your commanding officer. As a result, the Board concluded significant negative aspects of your active service outweigh the positive and continues to warrant a General (Under Honorable Conditions) characterization. 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 granting you the relief you requested or granting relief 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,

3/21/2023

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Signed by:

A black rectangular redaction box covering the name of the signatory.