



acknowledged an understanding of the nature and terms of your enlistment through completion of item 54 of his Enlistment Contract (DD Form 4). On 29 May 1972, you began a fourth period of UA which lasted 101 days. On 9 October 1972, you began a fifth period of UA which lasted three days. On 12 May 1972, you were convicted by SPCM for two periods of UA. You were sentenced to confinement at hard labor and forfeiture of pay. On 23 January 1973, you were convicted by SPCM for two additional periods of UA. You were sentenced to confinement at hard labor and forfeiture of pay. On 14 May 1973, you began a sixth period of UA which lasted 125 days. On 23 September 1973, you began a period of UA which lasted 1099 days. On 29 July 1975, you were charged with four periods of UA. On 14 October 1976, you requested an Other Than Honorable (OTH) discharge characterization of service in lieu of trial by court martial. On 21 October 1976, the separation authority approved and ordered your OTH discharge characterization in lieu of trial by court martial. On 1 November 1976, you were 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 Wilkie Memo. These included, but were not limited to your desire for a discharge upgrade and contention that you were guaranteed an MOS of 1371 Combat Engineer vice MOS 0341 Mortarman. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 NJP and multiple SPCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board concluded your conduct showed a complete disregard for military authority and regulations. Ultimately, the Board did not find your arguments regarding your assigned MOS to be persuasive and determined you were appropriately held accountable for your intentional decisions to enter into multiple periods of UA. The Board noted that you were afforded ample opportunities to correct your conduct issues but refused to do so. Finally, the Board determined that you already received a large measure of clemency when the Marine Corps agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and likely punitive discharge. 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. 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 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,

11/21/2022

