



On 22 April 1985, you were transferred to █ in a LIMDU status. You commenced a three-day period of UA, on 14 Jun 85, following four UA periods of less than one day each. The Medical Board referred you to a Physical Evaluation Board (PEB) on 8 July 1985. Subsequently, you were found guilty of five specifications of UA at Summary Court-Martial on 7 August 1985.

On 11 August 1985, you were arrested by civilian authorities for two misdemeanor charges of obtaining property with a worthless check. On 6 September 1985, you were arrested by civilian authorities for three felony charges of burglary conveyance after items from the burglary were found in your vehicle by local police. You were placed in a deferred prosecution program which included one-year probation, monthly probation officer meetings, and restitution to the victims.

Subsequently, you were notified of pending administrative separation processing with an Other Than Honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. You elected to consult with legal counsel and requested an administrative discharge board (ADB). In the meantime, the PEB terminated its deliberations due to pending administrative actions in your case. The ADB found that you had committed misconduct and recommended that you be discharged under OTH conditions by reason of misconduct due to commission of serious offense. The separation authority concurred with the ADB and approved and directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 27 December 1985, you were so discharged.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 27 April 1987, based on their determination that your discharge was proper as issued.

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 to change your discharge characterization of service and your contentions that your record and reviews were excellent prior to your issues in the Navy, you incurred an in-service shoulder injury which caused you pain and to self-medicate with alcohol and THC, you requested treatment from the ship's counselor but did not get help, you were told you committed a theft, but you do not recall the events because it was during a black-out episode, you were told you would be getting a medical discharge for your shoulder, you were verbally abused by your supervisor, and that since discharge you have been sober, attended school to become an aircraft mechanic, own your own business, and have full time employment maintaining commercial aircraft. 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 that your misconduct, as evidenced by your NJP, SCM, and civilian offenses, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely discrediting effect it had on the Navy. The Board also considered the likely negative impact your repeated misconduct had on the good order and discipline of your commands and noted that you were given multiple

opportunities to address your conduct issues but you continued to commit misconduct. Additionally, there is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. However, the Board noted your record of misconduct also included NJP for marijuana possession and SCM for UA, as well as several uncharged UA periods. Therefore, the Board was not persuaded by your argument.

The Board noted that during your ADB you recalled the events of the evening of the burglary in great detail and claimed your passenger committed the theft when you left the area briefly. The Board also noted that your medical records indicated your shoulder injury was incurred pre-service, in your tenth-grade year of high school, and this information was not disclosed by you on your enlistment physical. The Board found no record of you requesting assistance with a substance abuse problem, nor attributing that problem to your shoulder injury, either in your record or in your ADB testimony. Similarly, the Board was not able to verify your claim of verbal abuse by your supervisor.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board commends your post-discharge accomplishments and sobriety, 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,

10/24/2023

