



On 30 October 1980, you were found guilty of thirty-four days of UA at Special Court-Martial (SPCM). On 21 April 1981, you commenced a seven-day period of UA and, on 29 April 1981, you received NJP for that offense.

Subsequently, on 12 May 1981, you were notified of pending administrative separation processing with an Other Than Honorable (OTH) discharge by reason of frequent involvement with military authorities. That same day, you waived your rights to consult counsel, submit a statement, or have your case heard by an ADB. Ultimately, the Separation Authority directed your discharge with an OTH characterization of service and you were so discharged on 12 June 1981.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 5 May 1983, 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 to qualify for veterans' benefits, and your contentions that you should have received a medical discharge because you lost your hearing due to your service, that your extended period of UA in 1980 was committed due to fear of retaliation from four Marines, whom you turned in for dealing drugs, who then stole your car, jumped you, and threatened to kill you, that your two periods of UA in 1981 were a result of erroneously being charged UA after being detained by civil authorities for an unpaid speeding ticket and an erroneous charge of UA after you called to extend your leave after your car broke down, and that, since discharge, you have been driving a tractor trailer for thirty years, have been a Teamster for twenty-six years, and have had no trouble with the law. 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 NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board noted that you were given multiple opportunities to address your conduct issues but you continued to commit misconduct. The Board noted that while there was evidence in the record that you expressed fear of retaliation from the Marines you turned in for stealing your car, you were diagnosed as being responsible for your actions, and were referred to legal for assistance. The Board further noted that you received three NJPs prior to the alleged incident with the four Marines, the subsequent UA period, and the 1981 UA periods. Additionally, 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. The Board further noted that you waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board, which was your chance for retention, and opportunity to earn a better characterization of service. Finally, the Board noted you were ineligible for military

disability benefits based on lack of evidence that you were unfit for continued naval service due to your hearing loss and the fact you were discharged for misconduct.

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, 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,

11/21/2023

