



On 28 April 1975, you submitted a “Request for Discharge in Lieu of Trial by Court-Martial” related to Special Court Martial (SPCM) changes pending on violations of UMCJ Article 86, for three specifications of UA, Article 92, for three specifications of wrongful possession and use of marijuana and wrongful possession of alcohol, and damage to a vehicle, Article 128, for two specifications of assault, and Article 134, for wrongful change to a medical chit. The separation authority granted your request and, on 28 May 1975, you were discharged from the Marine Corps for the good of the service with an Other than Honorable (OTH) characterization of service and assigned an RE- 4 reentry code.

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: (1) your assertion that you were incorrectly designated as “AWOL” when you were actually at sick bay, (2) your assertion that you were racially profiled, discriminated against, physically attacked, and denied medical attention, (3) your explanation that your conduct was an act of self-defense, and (4) your youth at the time of your misconduct. For purposes of clemency and equity consideration, the Board noted that you provided a personal statement, advocacy letters, and evidence of your homelessness.

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 SPCM, NJP, and request for separation in lieu of trial (SILT) by court martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your repeated misconduct and the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that such misconduct is contrary to Marine Corps values and policy. The Board highlighted that, per your own request, you received a discharge for the good of the service in lieu of trial by court martial. After receiving advice from your detailed counsel, you acknowledged your rights. Further, you confirmed your understanding that an undesirable discharge is a discharge under Other Than Honorable (OTH) conditions and that as a result of such discharge you could be deprived of virtually all rights as a veteran, under both Federal and State legislation, that you may not be eligible for any benefits earned by service under honorable conditions, and that you could expect to encounter substantial prejudice in civilian life. The Board concluded that the separation authority already granted you clemency by accepting your SILT request, thereby allowing you to avoid a possible court martial conviction and/or punitive discharge. In light of your SILT request, the Board determined that a characterization under OTH conditions remains appropriate in your case, as the basis of your separation was the commission of numerous acts constituting a significant departure from the conduct expected of a service member.

The Board did not believe that your service record was otherwise so meritorious as to deserve a discharge upgrade. Further, the Board was not persuaded by your allegations of racial discrimination or unfair treatment and noted that you provided no evidence, other than that derived from your personal assertions, to substantiate your contentions. Lastly, 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. While the Board carefully considered the evidence you submitted in mitigation and empathizes with your current situation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

12/8/2023

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