

service and your contentions that you injured your left knee in boot camp and still struggle with pain and lack of mobility in your left knee, you are no longer able to work because you have limited mobility, and a discharge upgrade will help you obtain housing. 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 separation in lieu of trial by court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. The Board noted you provided no evidence, other than your personal statement, to substantiate your contentions. In fact, the Board noted that your Enlistment physical indicates your left knee sprain was a pre-service injury that did not present symptoms at your time of enlistment and induction and is not mentioned in any of your other available records. Subsequent medical record entries indicate you also had undisclosed pre-service injuries to your neck and back from a 1987 incident when you were kicked by a bull. You were also seen several times for right knee pain following a fall in the shower. Subsequent entries, including your discharge physical, show the right knee pain to have resolved. Therefore, the Board determined your separation was supported by your extended period of unauthorized absence and request to be discharged in lieu of trial by court-martial. Finally, 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.

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. 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,

1/26/2024

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Executive Director

Signed by: █