



total of five specifications of violations of Article 86 of the Uniform Code of Military Justice (UCMJ) and found guilty of all UA periods with the exception of the period of your confinement by civilian authorities. Your adjudged sentence included four months confinement at hard labor, reduction to the grade of E-1, forfeiture of pay, and a Bad Conduct Discharge (BCD). Of note, during your confinement, you received a psychiatric evaluation which documented that you had immature personality and judgment, but you had no specific mental health diagnosis. Although you requested clemency and restoration to active duty, the Naval Clemency and Parole Board granted no clemency and denied your request for restoration. Upon conclusion of the review of your SPCM findings and sentence, your BCD was ordered executed, and you were so discharged on 16 September 1975.

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 upgrade your discharge and your contentions that you got into a fight with two white Marines and a lawyer was going to testify against you so that you would be sent to federal prison for five years if you did not sign the papers. Your statement did not provide context for the time frame of this incident. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SPCM and UAs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board determined that unexpectedly absenting yourself from your command placed an undue burden on your chain of command and fellow service members, and likely negatively impacted mission accomplishment. Finally, the Board noted you provided no evidence to substantiate your contentions. 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 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 is attached 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,

2/28/2024

█