



resisting arrest and assaulting a police officer on 4 February 1974. You were subsequently arraigned in a civil court and then delivered to Naval authorities on 7 February 1974.

On 20 February 1974, you were issued an administrative remarks (Page13) counseling concerning deficiencies in your performance and/or conduct and advised that you were being considered for administrative separation due to your disciplinary infractions and civil offenses. On 21 February 1974, charges of UA and desertion were referred to SPCM. On 18 March 1974, your pre-trial psychiatric evaluation indicated that you displayed a diagnostic impression of immature personality disorder, showed average to above average intelligence, strongly desired to be discharged, could not adjust to rules and regulations, and were unsuitable for further military service.

On 19 March 1974, you were found guilty at Special Court Martial (SPCM) of UA from 10 December 1973 to 6 February 1974. You were sentenced to forfeitures, confinement, and a Bad Conduct Discharge (BCD). You were released from confinement, on 11 April 1974, and commenced appellate leave on 12 April 1974. On 8 July 1974, you expressly requested execution of your discharge and waived any restoration of duty, claiming you were unsuitable for military service and wished to study music. Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 15 October 1974.

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 you went UA due to diminished capacity upon return from deployment to a combat zone, that you were diagnosed with a personality disorder, and that you made a poor decision to waive restoral of duty following your BCD sentence. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but chose not to respond to the 21 September 2023 letter from the Board requesting evidence in support of your claims. 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 and SPCMs, 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, which ultimately led to your second SPCM and BCD. Additionally, 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.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD 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,

4/29/2024

